SIXTH EDITION

THE AGRICULTURAL HOLDINGS ACTS

1908 TO 1921

AND THE

CORN PRODUCTION ACTS

1917 AND 1920

A. J. SPENCER

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With Explanatory NOTES and General FORMS,

ALSO THE

STATUTORY RULES AND REGULATIONS MADE BY THE MINISTRY OF AGRICULTURE AND FISHERIES THEREUNDER,

AND THE

COUNTY COURT RULES AND FORMS RELATING THERETO,

TOGETHER WITH THE

ALLOTMENTS AND COTTAGE GARDENS COMPENSATION FOR CROPS ACT, 1897.

BY

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SIXTH EDITION.

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NOTE.

The Corn Production Act, 1917, and Part I. of the Agriculture Act, 1920, have since this work was passed for Press been repealed as from October 1, 1921, by the Corn Production Acts (Repeal) Act, 1921, except certain powers with respect to the destruction of injurious weeds conferred by Section 4 (10) of the Act of 1920 and Section 13 of the Act of 1917. Part II. of the Agriculture Act, 1920, still remains in force except sub-section 1 of Section 15, which is repealed. The repealing Act provides that the power under Section 12 of the Agriculture Act, 1920, which is exercisable, in relation to a dwelling-house occupied by an agricultural labourer, by a district wages committee or a sub-committee of such committee may be exercised by a court of summary jurisdiction for the district in which the dwelling-house is situate.

PREFACE

TO THE SIXTH EDITION.

SINCE the last edition of the author's works on the Agricultural Holdings Act, 1908, and the Corn Production Act, 1917, the very important Agriculture Act, 1920, has been passed which has greatly altered the legal conditions under which agriculture is to be practised in this country. The first part of the Act of 1920 is an amendment of the Corn Production Act, 1917, which was passed to stimulate the production of corn, to promote the good cultivation of land generally, whether in the occupation of an owner or tenant, and to secure an adequate wage for agricultural labourers. The second part of the Act is an amendment of the Agricultural Holdings Act, 1908, and deals with the relationship of landlord and tenant of agricultural land and is presumably intended to secure that that relationship shall be such as to encourage good cultivation and the turning of the cultivable land of the country to the best account. The two parts of the Act have to be read as one with the two earlier Acts respectively.

The author has endeavoured in his notes to elucidate the provisions of these Acts, which are not always easy to be understood, and to give such assistance in this respect as he can to those whose interests may be affected by, or who may be professionally concerned, whether as lawyers, valuers, land or estate agents or otherwise, in questions arising under the Acts.

In Appendix I. will be found General Forms for use under the Agricultural Holdings Acts. Appendix II. contains the material County Court Rules and Forms, and Appendix III. the rules and regulations issued by the Ministry of Agriculture and Fisheries and the Agricultural Wages Board under the powers of the Acts.

It has lately been announced, when this work was on the eve of publication, that it is intended to decontrol Agriculture and with that object to repeal the Corn Production Act, 1917, and Part I. of the Agriculture Act, 1920. The Agricultural Holdings Act, 1908, and Part II. of the Agriculture Act, 1920, are, however, to be left standing, so that even if so much of this work as deals with the Corn Production Acts, 1917 and 1920, will, when the repeal is carried out, be of little practical value, the remainder, which constitutes the greater part of the book, may still, as the author hopes, be useful in elucidating the law relating to agricultural tenancies.

AUBREY J. SPENCER.

Lincoln's Inn.
July, 1921.

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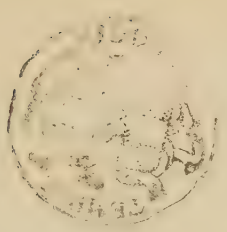

INTRODUCTION.

I.—THE AGRICULTURAL HOLDINGS ACTS, 1908 TO 1920.

THIS Agricultural Holdings Act, 1908, deals with the subject of compensation for improvements effected on agricultural holdings and market gardens, and with various other matters affecting the relations of landlord and tenant on such holdings. It is a consolidation of a series of former statutes which have been repealed, viz., the Agricultural Holdings (England) Act, 1883; the Tenants' Compensation Act, 1890; the Market Gardeners' Compensation Act, 1895; the Agricultural Holdings Act, 1900 (collectively known as the Agricultural Holdings (England) Acts, 1883 to 1900); and the Agricultural Holdings Act, 1906, known before it passed into law as the Land Tenure Bill. The last-mentioned Act never actually came into operation, having been repealed by the Act of 1908 (which embodied all its provisions) before January 1, 1909, the date of its commencement. The Act of 1908 has been amended by the Agricultural Holdings Act, 1913, the Agricultural Holdings Act, 1914 (3 & 4 Geo. 5, c. 7), which has now been repealed, and finally by Part II. of the Agriculture Act, 1920.

The above series of Acts of Parliament has effected important changes in the law relating to holdings of whatever size, either wholly agricultural or pastoral, or in part agricultural and as to the residue pastoral, or in whole or in part cultivated as a market garden.

Previously to the passing of the first of these Acts a tenant was not necessarily entitled to any compensation for improvements executed during his tenancy. On his quitting his holding, the landlord reaped the sole benefit of the improvements (if any) effected by the tenant, in accordance with the legal maxim: "*Quicquid plantatur solo, solo cedit.*" The exception to this rule was, that in several counties, notably Lincolnshire, Leicestershire, and Glamorganshire, compensation for improvements was to some extent provided by the custom of the country. The Agricultural Holdings (England) Act, 1875, also provided compensation for the improvements therein mentioned, but as it was competent for either landlord or tenant to exclude its operation, and the common practice was to exclude it, it had very little effect. The operation of the Act of 1883, however, could not, so far as it provided compensation to tenants for improvements, be excluded.

Sect. 55 (1883).

The general effect of the law contained in the Agricultural Holdings Act, 1908 to 1920, may be considered under six heads:—

1. Compensation for improvements.
2. Compensation for damage by game, and for disturbance.
3. Notice to quit.
4. Fixtures.
5. Distress
6. Other matters.

1. *Compensation for Improvements.*

Sect. 1 (1908).

The tenant, at the determination of his tenancy, on quitting his holding, is entitled, subject as in the Act mentioned, to compensation for the improvements mentioned in the First Schedule to the Act, and in the case of a tenancy entered upon after January 1, 1921, whether the improvement was or was not one which he was required to make by the terms of his tenancy. Such compensation is to be measured by the value of the improvements to an

incoming tenant, not by their cost to the outgoing tenant. If the tenant chooses, he may claim compensation under the custom of the country or under any agreement in lieu of claiming under the Act for any improvement which is covered by the Act This option, which was first given by the Act of 1900, and is repeated in the Act of 1908, was excluded by the Act of 1883.

The First Schedule is divided into three parts. Improvements in the first part are of a permanent nature, such as the erection of buildings, the laying down of permanent pasture, the formation of silos, &c. The tenant is not entitled to compensation for any improvements mentioned in this part of the Schedule, unless the landlord has previously to the execution of the improvement given his consent in writing, or unless it is an improvement brought within the second part of the Schedule in manner hereinafter mentioned. The consent may be given on any terms as to compensation or otherwise. Sched. 1, part 1 (1908).

The second part of the First Schedule includes in the first instance only one improvement, viz., Drainage, but an improvement comprised in the first part may be brought within the scope of the second part if declared by regulation of the Minister of Agriculture and Fisheries to be an improvement to which section 15 sub-sect. 1 of the Agriculture Act, 1920, relates, and if the county agricultural committee directs, on the refusal of a landlord to consent to its execution, that it shall be so treated. A tenant intending to drain or to execute any other improvement brought within this part must give notice to the landlord, not more than three and not less than two months before beginning the improvement, of his intention, and of the manner in which he proposes to execute the improvement. The landlord may agree with him as to the compensation payable, or may execute the improvement himself, and after executing the same " in any reasonable and proper manner which he thinks fit," may charge the tenant 5 per cent., or other authorised percentage, on his outlay or an annual sum which will repay the outlay in a specified number of years Sched. 1, part 2. Sect. 3 (1908).

with interest. The landlord and tenant may dispense with notice and come to an agreement in a lease or otherwise with regard to the improvement. If the landlord does not undertake the improvement, the tenant may execute the improvement himself, and in default of any agreement with the landlord, he will become entitled to compensation under the Acts.

Sched. 1, part 3 (1908). Improvements mentioned in the third part of the First Schedule are mainly improvements which tend to increase directly the fertility of the soil, and consist in the application of some external substance, such as artificial manure, lime, &c., to the land, or the consumption on the holding by cattle, sheep, pigs, or horses, other than those regularly employed on the holding, of corn, cake, or other feeding stuff not produced on the holding, or of corn proved to have been produced and consumed on the holding. This part also includes laying down temporary pasture with clover, grass, or other seeds, sown more than two years prior to the determination of the tenancy, and repairs to buildings necessary for the proper cultivation or working of the holding, other than buildings which the tenant himself is under an obligation to repair. In the case of any holding or part of a holding agreed in writing to be let or treated as a market garden, or held under a contract of tenancy current on 1st January, 1896, and at that date in use or cultivation as a market garden with the knowledge of the landlord, compensation may also be obtained for improvements mentioned in the Third Schedule (that is to say) the planting of fruit trees or fruit bushes permanently set out, the planting of strawberry plants, and of asparagus, rhubarb, and other vegetable crops which continue productive for two or more years, and the erection or enlargement of buildings for the trade or business of a market gardener, as if these improvements were comprised in the third part of the First Schedule. If a tenant desires to make an improvement comprised in the Third Schedule on his holding or part of his holding, and the landlord refuses or fails to agree that the holding or that part of the

Sect. 42 (1908).

Sched. 3 (1908).

Sect. 15, sub-s. 3 (1920).

holding shall be treated as a market garden, the agricultural committee for the area where the holding is situate may direct that section 42 shall apply to the holding or that part thereof in respect of all or any of the improvements comprised in the Third Schedule, which direction will give the tenant the right to compensation therefor on the termination of the tenancy, if it is terminated by the landlord's notice to quit. If, however, in such a case the tenancy is terminated by notice to quit given by the tenant or by reason of his bankruptcy or compounding with his creditors, the compensation will not be recoverable from the landlord unless he refuses to accept as tenant some substantial and suitable person produced by the tenant, who will pay all compensation payable under the Act to the outgoing tenant.

The tenant is entitled to compensation for any improvements mentioned in the third part of the First Schedule, whether the landlord has consented to them or not. An agreement cannot now be made for "substituted compensation" in respect of these improvements. Sect. 27 (1920).

Compensation is also now obtainable for continuous high-farming, for if a tenant proves to the satisfaction of an arbitrator on quitting his holding that the value of the holding has been increased during his tenancy by the continuous adoption of a standard or system of farming more beneficial to the holding than the standard or system required by the contract of tenancy, he may be awarded compensation representing the value to an incoming tenant of the adoption of that standard or system, but in order to be entitled to this compensation a record of the condition of the holding must have been made. Sect. 16 (1920).

The compensation due to the tenant may be diminished (a) by any benefit allowed to him by the landlord in consideration of his executing the improvement, (b) by an allowance for the value of the manure required by the tenancy or custom to be returned in respect of crops grown on and sold off or removed within the last two years of his tenancy, not exceeding the value of the manure which would in fact have been produced by the consumption on Sect. 1, sub-s. 2 (1908).

Sect. 19 (1908).

the holding of the crops so sold off or removed. No claim can be made by a tenant for compensation for any improvements, other than manuring, as defined in the Act, begun within a year before the expiration of his tenancy, or after the final notice to quit, unless the landlord, after notice served of the tenant's intention to begin the improvement, has assented or failed to object to the making of the improvement.

Sect. 6, sub-s. 1 (1908). Sect. 18, sub-s. 1 1920).

An agreement may be concluded between the parties as to the compensation payable, or failing an agreement the matter will be settled by arbitration. The arbitration will extend to any claim for sums claimed to be due to the tenant from the landlord for any breach of contract or otherwise in respect of the holding and to any claim by the landlord against the tenant for waste committed or permitted by him or for any breach of contract or otherwise in respect of the holding and to any other question or difference of any kind between the landlord and the tenant arising out of the tenancy of the holding or as to the construction of the contract of tenancy, the jurisdiction of the Court in these matters being apparently excluded. No specific notice of these claims is now required to be given, but any such claim will cease to be enforceable after the expiration of two months from the termination of the tenancy unless particulars thereof have been given by the landlord to the tenant or by the tenant to the landlord, as the case may be, before the expiration of that period.

Sect. 18, sub-s. 2 (1920).

Sect. 7 (1908).

Where an incoming tenant has, with the consent in writing of his landlord (or without such consent in the case of a market garden), paid to an outgoing tenant any compensation payable in respect of an improvement, he will be entitled to claim compensation in respect of that improvement on quitting the holding in like manner as the outgoing tenant would have been entitled if he had remained tenant of the holding and quitted it at the time at which the incoming tenant quits it.

Sect. 13 (1908).

All questions which, under the Act or under the contract of tenancy, are referred to arbitration, must be determined,

notwithstanding any agreement to the contrary, by a single arbitrator agreed upon by the parties, or in default of agreement to be selected by the Ministry of Agriculture and Fisheries on the application in writing of either party from a panel of arbitrators appointed by the Lord Chief Justice of England. He must make and sign his award within twenty-eight days of his appointment, or within such longer period as the Ministry of Agriculture and Fisheries may determine. The award is final and binding on the parties without any right to appeal, unless the arbitrator has misconducted himself, or the arbitration or award has been improperly procured, in which case the County Court may set the award aside; but the arbitrator may correct any clerical mistake or error arising from any accidental slip or omission. He is bound to state separately in his award the amount awarded in respect of the several claims referred to him. The arbitrator may at any stage of the proceedings, and shall, if so directed by the County Court, state a special case for the opinion of the County Court on any question of law arising in the course of the arbitration, and there is an appeal from the County Court to the Court of Appeal, whose decision is final. Any sum agreed or awarded to be paid for compensation, costs, or otherwise is recoverable upon order made by the County Court. The remuneration of an arbitrator nominated by the Ministry will be such amount as is fixed by the Minister. When the arbitrator is appointed by the parties, his remuneration in default of agreement will be fixed by the registrar of the County Court, subject to appeal to the judge of the Court.

Sched. 2, r. 5. (1908).
Sched. 2, r. 11 (1908).
Sched. 2, r. 12 (1908).
Rule 10. sub-s. 2 (1920).
Rule 9 (1908).
Sect. 13 (1908).
Sect. 14 (1908).
Sect. 21, sub-s. 2 (1920).

A charge upon the holding may be obtained by the landlord for any compensation paid by him, and if the landlord is a trustee or mortgagee he will not be liable personally for compensation, but it may be charged upon the holding by an order of the Ministry of Agriculture and Fisheries, and the charge so made will be a "land charge" within the Land Charges Registration and Searches Act, 1888.

Sect. 15 (1908).
Sect. 19 (1908).

Compensation by agreement between the parties may

be substituted for compensation under the Acts in respect of any improvements mentioned in the first or second parts of the First Schedule, or in the Third Schedule by an agreement for "fair and reasonable" compensation. But save as above mentioned any contract (whether under seal or not), whereby a tenant is deprived of his right to claim compensation under the Act, is void. The tenant may, however, if he choose, claim compensation under custom or agreement in lieu of compensation under the Act, though the landlord cannot compel him to do so.

Sect. 27 (1920).

Sect. 5 (1908).

2. *Compensation for Damage by Game, and for Disturbance.*

Sect. 10 (1908).

The Act gives the right to a tenant to obtain compensation for damage to his crops from game, which he has no right himself to kill and take; and for this purpose "game" is defined as meaning "deer, pheasants, partridges, grouse, and black-game." No claim, however, can be made unless the damage exceeds 1s. per acre of the area over which it extends, and notice must be given to the landlord as soon as may be after the damage is observed, and a reasonable opportunity afforded of inspecting the damage, in the case of a growing crop, before it is reaped, raised, or consumed; in the case of a crop reaped or raised, before it is removed. Notice of the claim, with particulars, must also be given within one month after the expiration of the calendar year, or other agreed period. In default of agreement as to amount the compensation will be determined by arbitration. If the right to the game is vested in some other person than the landlord—for instance, in a shooting tenant—the landlord will be entitled to be indemnified by such person against all claims for compensation for damage by game.

The right of compensation for unreasonable disturbance was conferred on tenants by section 11 of the Act of 1908 in cases where a landlord, "without good and sufficient cause, and for reasons inconsistent with good estate management," terminated the tenancy by notice to quit, or in case

of a tenancy for a fixed period, having been requested in writing, at least one year before the expiration of the tenancy, to grant a renewal, refused to do so. The right now depends on section 10 of the Act of 1920, which gives a tenant of a holding whose tenancy is terminated by reason of a notice to quit given after May 20, 1920, by the landlord the right to compensation for disturbance in any case except where the tenant (a) was not at the date of the notice, cultivating according to the rules of good husbandry; (b) had at the date of the notice failed to comply with a notice to pay rent or to remedy any breach of any term or condition of the tenancy consistent with good husbandry; (c) had at the date of the notice prejudiced the interests of the landlord by committing a breach not capable of being remedied of any such term or condition ; (d) had at the date of the notice become bankrupt or compounded with his creditors ; (e) had refused or failed to agree to a demand by the landlord for arbitration as to the rent of the holding ; or (f) had at the date of the notice refused or failed to comply with a demand made to him by the landlord to execute at the landlord's expense an agreement setting out the terms of the tenancy. But in order to escape the liability for compensation for disturbance for any of these reasons the landlord's notice to quit must state that it was given for one or more of the reasons. The compensation is for loss or expense directly attributable to the quitting of the holding and unavoidably incurred by the tenant in connection with the sale or removal of his household goods, implements of husbandry, fixtures, farm produce or farm stock, to be computed for the purposes of the Act at an amount equal to one year's rent of the holding, unless it is proved that the loss and expense so incurred exceed one year's rent, in which case the sum recoverable will be the whole loss and expense so incurred up to a maximum amount equal to two years' rent of the holding. To entitle a tenant to recover this compensation in respect of any sale of goods, implements, produce, or stock he must have given the landlord a reasonable opportunity of making a valuation

Sect. 10 (1920).

thereof and he must, one month before the termination of the tenancy, have given notice of intention to claim. It will not be payable where the tenant with whom the contract of tenancy was made has died within three months before the notice to quit. In one case only compensation for disturbance is payable when the notice to quit is given not by the landlord but by the tenant. That is where the landlord refuses or fails to agree to a demand in writing from the tenant for arbitration as to the rent to be paid for the holding and by reason of this refusal or failure the tenant terminates his tenancy by a notice to quit stated to be given for that reason. But even in this case compensation will not be payable if the circumstances are such that notice to quit could have been given by the landlord for any of the reasons (a) (b) or (c) mentioned above.

Sect. 10, sub-s. 3 (1920).

Arbitration on the question of rent may therefore, under the Act of 1920, be demanded either by a landlord as against a tenant who refuses to agree to an increase of rent or by a tenant as against a landlord who refuses to agree to a reduction of rent. If the tenant refuses and he is in consequence served with notice to quit he will lose his right to compensation for disturbance. If the landlord refuses and the tenant in consequence gives notice to quit the landlord will, except in the circumstances before mentioned, be liable to pay compensation for disturbance, although the notice to quit comes from the tenant. But the provisions relating to demands for arbitration as to rent will not apply when the demand is for an increase or reduction to take effect before the expiration of two years from the commencement of the tenancy or from the date of a previous increase or reduction.

Sect. 10, sub-s. 4 (1920).

Sects. 11 & 12 (1920).

The provisions as to compensation for disturbance are also applied with the necessary modifications to tenancies of allotment gardens and to the occupation of cottages forming part of a holding and occupied by workmen employed in agriculture on the holding.

3. *Notice to Quit.*

The law before the Act of 1883 was that a half-year's notice to quit was sufficient to determine a yearly tenancy. By the Act of 1908, where a half-year's notice was "by law" necessary and sufficient, in all cases to which the Act applied, a year's notice expiring with a year of tenancy was necessary and sufficient. But the landlord and tenant might exclude this provision by agreement. Under the Act of 1920, a notice to quit is (with certain exceptions) invalid if it purports to terminate the tenancy "before the expiration of twelve months from the end of the then current year of tenancy," and this provision cannot be contracted out of, but it does not extend to a case where a receiving order in bankruptcy is made against the tenant. Sect. 22 (1908). Sect. 28 (1920).

A landlord may give notice to the tenant to quit part of his holding in order to resume the land for certain improvements specified in sect. 23 of the Act of 1908, such as the erection of labourers' cottages or other houses, the providing of allotments or small holdings, the planting of trees, &c.; but the tenant may treat such a partial notice as a notice to quit his entire holding. It is expressly provided that a notice in pursuance of a provision in the contract of tenancy authorising the resumption of possession of the holding or some part thereof for some specified purpose does not come under the requirement of a twelve months' notice to quit, unless that purpose is the use of the land for agriculture. A tenant receiving notice to quit part of his holding under such a resumption clause, will be entitled to a proportionate reduction of rent and to compensation for improvements and disturbance in respect of that part. Sect. 23 (1908). Sect. 28, sub-s. 2 (c), (1920). Sect. 22 (1920).

In the case of a tenancy not binding on the mortgagee of the land, it is enacted by the Act of 1908 that the mortgagee must give the occupier six months' notice to quit before he deprives him of the land, and if he so deprives him the occupier is entitled to compensation for his crops and for expenditure made by him in the expectation of holding his land for the full term of his contract of tenancy, but it Sect. 12 (1908).

would seem that under the Act of 1920 a twelve months notice is necessary in such a case.

Sect. 13 (1920).

Even in the case of a tenancy for a term of two years or upwards the tenancy will not terminate on the expiration of the term unless at least one year's notice of intention to terminate it has been given by either party. If not so terminated it will continue as a tenancy from year to year, but this provision does not apply to tenancies granted or agreed to be granted before 1st Jan, 1921.

Sect. 14 (1920).

Tenancies to which the Landlord and Tenant Act, 1851, applies (i.e. where the tenancy is liable to determination by the cesser of the landlord's estate) are also affected by the Act of 1920, and instead of the tenant having a right to continue in occupation until the end of the current year of his tenancy he may continue in occupation until the occupation is determined by a twelve months' notice to quit.

4. *Fixtures.*

Sect. 21 (1908).

Fixtures formerly became the property of the landlord on the determination of the tenancy. An exception was, however, introduced in the case of what are called "tenant's fixtures" and "trade fixtures." The latter, it was decided by the well-known case of *Elwes* v. *Maw* (2 Sm. L. C. 188), do not include fixtures put up for the purpose of agriculture. By 14 & 15 Vict. c. 25, s. 3, an agricultural tenant was enabled to remove fixtures put up by him with the consent of his landlord for agricultural purposes. Now all fixtures, whether erected by the tenant or acquired from a former tenant, and any buildings erected by him or acquired for which he is not under the Act or otherwise entitled to compensation, are the property of and removable by the tenant before or within a reasonable time after the determination of his tenancy. The landlord has, however, a right to one month's notice of removal, and may elect to purchase the fixtures or buildings.

It is to be observed that an absolute property in the fixtures and buildings (subject to the landlord's option of

purchase) is thus vested in the tenant. The value of the fixtures may, if necessary, be ascertained by arbitration under the Act.

The provisions of the Act with regard to fixtures and buildings extend to any fixture or building affixed or erected by a tenant for the purposes of his trade or business of a market gardener, and a tenant of a market garden may remove fruit trees and fruit bushes planted by him and not permanently set out. Sect. 42 (1908).

5. *Distress.*

Six years' arrears of rent could at the time of the passing of the Act of 1883 be levied by distress. In the case of arrears arising subsequently, a landlord may not distrain for rent which has become due more than one year before the making of the distress. In cases, however, where in the "ordinary course of dealing" payment of rent is habitually deferred until a quarter or half-year after the day when it becomes due, the rent is only deemed to become due at the expiration of such quarter or half-year. The amount of rent actually leviable by distress may, if payment is deferred habitually, exceed one year's rent, for the landlord may distrain for rent due but not yet payable according to the "ordinary course of dealing," and also for the rent which has become payable during the previous year according to "the ordinary course of dealing." (*Re Bew, Ex parte Bull*, 56 L. J. Q. B. 270; 18 Q. B. D. 642.) Sect. 28 (1908).

Live stock agisted at a fair price is exempted from distress, except to the extent of the price agreed to be paid for feeding. The exemption extends to machinery, the *bona fide* property of a person other than the tenant, on his premises under an agreement for hire or use in the conduct of his business, and live stock belonging to such other person on the farm solely for breeding purposes. Disputes as to ownership or in respect of other matters relating to the distress may be heard by the County Court or a Court of Summary Jurisdiction, and where compensation for any Sect. 29 (1908). Sect. 30 (1908). Sect. 31 (1908).

improvement is due under the Act to the tenant and the amount has been ascertained, the landlord may not distrain for more than the balance of the rent.

6. *Other Matters.*

Sect. 24 (1908). The landlord of a holding to which the Act applies may at all reasonable times enter on the holding to view the state of the holding, whether or not the right of entry is expressly given him by his tenancy agreement.

Sect. 25 (1908). Penal rents are abolished, and the landlord cannot recover by distress or otherwise any sum for breach of covenant beyond the actual damage suffered, except in cases of covenants or conditions against breaking up permanent pasture, grubbing underwoods, felling, cutting, lopping or injuring trees, or regulating the burning of heather, in which cases penal rents may be recovered and will be enforceable as before.

Sect. 26 (1908). The tenant has full freedom of cropping arable land as he may choose, notwithstanding any agreement or custom as to the method of cropping, and he has full right to dispose of any produce of the holding, whether from arable or grass land. But the liberty given is not to apply in the last year of the tenancy or after notice to quit, so that in this respect the tenant may still be bound by contract or custom. Any tenant exercising his rights under this section of the Act must make suitable and adequate provision to protect the holding from injury or deterioration, which, in the case of produce sold off, must consist in the return to the holding of the full equivalent manurial value of the crops sold off. If he exercises his rights given him by the Act in such a manner as to injure or deteriorate the holding, or be likely so to do, the landlord will be entitled to recover damages for injury or deterioration, or obtain an injunction restraining the exercise by the tenant of his rights.

Sect. 19 (1920). The tenant is, moreover, made liable on the termination of his tenancy to pay compensation for any deterioration

of the value of the holding caused by his failure to cultivate according to the "rules of good husbandry" or the terms of his contract of tenancy, but the landlord must give notice of his intention to claim such compensation before the termination of the tenancy. The "rules of good husbandry" are defined to include the maintenance of arable, meadow, and pasture land in a good state of cultivation and fertility and in good condition and the maintenance and clearing of ditches, drains, etc., and the maintenance and repair of hedges, fences, buildings, etc. Sect. 33 (4) (1920).

He is also forbidden after notice to terminate a tenancy is given to sell or remove from the building any manure or compost or any hay, straw or roots, grown in the last year of the tenancy unless and until he has given the landlord or incoming tenant an opportunity of purchasing at their fair market value or other value provided by the contract of tenancy such manure, compost, hay, straw or roots. Sect. 25 (1920).

Either party may, at any time during the tenancy, require a record of the condition of the buildings, fences, gates, roads, drains, ditches, and cultivation of the holding and a record of improvements executed by the tenant and of his fixtures and buildings to be made by a person to be appointed, in default of agreement, by the Minister of Agriculture and Fisheries, and the cost of making the record will be borne, in default of agreement, by the landlord and tenant in equal proportions. Sect. 26 (1920).

II.—THE CORN PRODUCTION ACTS, 1917 AND 1920.

THIS Corn Production Act, 1917, was passed as a temporary measure to continue in force until the end of the year 1922. It was amended by the Corn Production (Amendment) Act, 1918 (8 and 9 Geo. 5 c. 36), which has since been repealed, and further amended in important particulars by Part I of the Agriculture Act, 1920, which enacts that it shall continue in force until Parliament otherwise determines, with a proviso that His Majesty may on an address presented by both Houses of Parliament declare that it shall cease to be in force on the expiration of the fourth year subsequent to the year in which the Order is made. Part I. of the Agriculture Act, 1920, is to be construed as one with the Act of 1917, and that Act and Part I. may be cited together as the Corn Production Acts, 1917 and 1920. The Act was passed "for encouraging the production of corn. and for purposes connected therewith (including provision as to agricultural wages and rents)" as stated in the title, It deals with "agricultural" land, using that expression in a very wide sense, for "agriculture" is defined as including "the use of land as grazing, meadow, or pasture land, or orchard, or osier land, or woodland, or for market gardens or nursery grounds."

Sect. 17, sub-sect. 1 (1917).

The Act may be considered under the five heads into which it is divided :—

1. Minimum price of wheat and oats.
2. Agricultural workmen (minimum wage).
3. Restriction on raising of agricultural rents.
4. Power to enforce proper cultivation.
5. General.

1. *Minimum Price of Wheat and Oats.*

In order to encourage the production of wheat and oats, minimum prices for wheat and oats were fixed for six years, ranging from 60*s.* for wheat and 38*s.* 6*d.* for oats in 1917 to 45*s.* for wheat and 24*s.* for oats in 1922. But by the Act of 1920 instead of fixed minimum prices it is provided that the minimum prices for the year 1921 and subsequent years shall be such prices for a statutory quarter and as shall be certified by Commissioners appointed for that purpose to correspond with the minimum prices for the year 1919 (called "the standard year"), viz. for wheat 68*s.* per customary quarter of 504 lbs., and for oats 46*s.* per customary quarter of 336 lbs., having regard to the percentage by which the cost of production of wheat and oats respectively for that year is greater or less than the cost of production in the standard year. In ascertaining the variation in the cost of production no account is to be taken of any variation of rent, except any variation attributable to a variation in the cost of maintenance. If the "average price" for wheat or oats in any year is less than the minimum price the occupier (whether as owner or tenant), on September 1st, of any land on which wheat or oats have been produced in that year will be entitled, in respect of each acre on which he proves to the satisfaction of the Ministry of Agriculture and Fisheries that wheat or oats have been so produced, to a sum equal in the case of wheat to four times and in the case of oats to five times the difference between the average price as defined by the Act and the minimum price per quarter. The Ministry have, however, power to withhold altogether or diminish the payment to any occupier when the land has been negligently cultivated. The "average price" of wheat and oats for any year is to be the average price for the seven months beginning on September 1st in that year, and is to be ascertained and calculated in the same manner as average prices for the purposes of Tithe Rent Charge are ascertained and

Sect. 2 (1917).

Sect. 2 (1920).

Sect. 1 (1917).

calculated under the Corn Returns Act, 1882 (45 & 46 Vict. c. 37). The Act contains a provision to meet the case of a change in the occupation of land between the date of planting and harvest, so as to preserve the rights of the outgoing tenant in respect of his away-going crop and give him an interest in any payment that may be received under the Act for wheat or oats by the actual occupier on September 1st.

Sect. 3 (1917).

2. *Minimum Wage.*

Sect. 4 (1917).

The Act provides that it shall be an offence, punishable on summary conviction by a fine not exceeding 20*l.* and by a fine not exceeding 1*l.* for each day on which the offence is continued after conviction, to pay a "workman" employed in agriculture (which includes, as above stated, the use of land as grazing, meadow, or pasture land, or orchard, or osier land, or woodland, or for market gardens or nursery grounds) wages at a rate less than the "minimum rate" as fixed under the Act. The Court before whom a case comes may also, whether there be a conviction or not, order the employer to pay, in addition to the fine (if any), such sum as may appear to be due to the workman on account of wages calculated at the minimum rate.

Sect. 5 (1917).

Minimum rates of wages for "workmen" (which expression includes boys, women and girls) employed in agriculture for time work are fixed by the Agricultural Wages Board established by the Board of Agriculture and Fisheries, and the Wages Board are also empowered, so far as they think it necessary or expedient, to fix minimum rates of wages for workmen employed in agriculture for piece work. The minimum rates may vary in different areas and for employment of any special character, and may provide for the case of overtime.

Sect. 5, sub-s. 8 (1917).

The minimum rate for time work for "able-bodied men" must be equivalent at least to wages for an ordinary day's work at the rate of 25*s.* a week, but benefits or

advantages not forbidden by law, such as the use of a cottage, food or fuel, may be reckoned as part of the wages if so allowed by the Wages Board, who have power to determine any question as to the value of any such benefits or advantages. The expression "able-bodied man" means any male workman who is not incapable by reason of age or mental or other infirmity or physical injury of performing the work of a normally efficient workman. There is a provision, intended as a guide to the Wages Board in fixing the minimum rate, that the rate fixed shall, "so far as practicable," secure for able-bodied men wages which in the opinion of the Board will be adequate to promote efficiency and to enable a man, in an ordinary case, "to maintain himself and his family in accordance with such standard of comfort as may be reasonable in relation to the nature of his occupation."

Sect. 12, sub-s. 1 (b) (1917).

Sect. 5, sub-s. 9 (1917).

Sect. 5, sub-s. 6 (1917).

The case of the non-able-bodied workman is met by giving power to the Wages Board to issue a permit exempting the employment of a workman from the provisions of the Act where the workman, owing to any mental or other infirmity or physical injury, is incapable of earning the minimum rate. While the permit is in force the employer is not liable for any penalty for paying wages to the workman at a rate less than the minimum rate, so long as any conditions prescribed by the Board in the grant of the permit are complied with.

Sect. 5, sub-s. 3 (1917).

In cases where no minimum rate for piece work has been fixed a workman employed in agriculture on piece work, or "any person authorised by such a workman," which would include a trade union official, may complain to the Wages Board that the piece rate of wages paid for that work would yield, in the circumstances of the case, to an ordinary workman a less amount of wages than the minimum time rate applicable in the case of that workman, and the Board may direct payment of an additional sum by way of wages for any piece work done by him at that piece rate within fourteen days before the day of complaint or at any time after the date of complaint and before

Sect. 6 (1917).

the decision of the Board thereon, representing the difference between the amount which would have been paid had the work been done at the minimum time rate by an ordinary workman and the amount actually received by the complaining workman.

Sect. 7 (1917).

Complaints as to the infraction of minimum rates of wages may be made to the Wages Board by any workman employed in agriculture or any person authorised by him. The Board may consider the matter and take proceedings if they think fit.

3. *Restrictions on Raising of Agricultural Rents.*

Sect. 8 (1917).

In order that the benefits conferred by the minimum prices of wheat and oats fixed by the Act may not enure to the landlord by way of increased rent instead of to the tenant, it is provided that the rent payable under any contract of tenancy made or varied after the passing of the Act (August 21st, 1917) shall not exceed such rent as would have been obtained if Part I. of the Act, which provides for payments by the State to growers of the difference between the average price of wheat and oats and the minimum price under the Act, had not been in force. Any question whether this provision of the Act has been contravened or not is to be referred to a single arbitrator under and in accordance with the provisions of the Agricultural Holdings Act, 1908, but rent will not be deemed to be in excess of that permitted unless notice in writing requiring the question to be referred to arbitration has been served on the landlord within one year from the commencement or variation of the tenancy. The section is not to affect any proceedings by a landlord for enforcing payment of any rent except so far as the rent has before the commencement of the proceedings been determined to be in excess of the permitted rent, but any rent in excess of the permitted rent paid or recovered before the award of the arbitrator will be recover-

able subsequently by the tenant from the landlord by way of deduction from future rent or otherwise.

It is to be noticed that this part of the Act does not interfere with the raising of rent by a landlord of agricultural land except so far as the increase could not have been obtained but for the State guarantee of minimum prices for wheat and oats. The landlord may raise his rent if the rise would otherwise be justified, *e.g.*, by the natural increase of prices of agricultural produce or because the land is worth more than has been paid for it for any reason except the guaranteed prices.

4. *Power to Enforce Proper Cultivation.*

Sect. 4 (1920).

The Minister of Agriculture and Fisheries is given wide powers after consultation with the agricultural committees of the district in four cases : (*a*) where land is not being cultivated according to the rules of good husbandry ; (*b*) where the production of food on the land can, in the national interest without injuriously affecting the persons interested in the land or altering the general character of the holding be maintained or increased by an improvement in the existing method of cultivation ; (*c*) where the occupier has unreasonably neglected to execute on the land the "necessary works of maintenance" being in the case of land occupied by a tenant works which he is liable to execute under the conditions of his tenancy or rendered necessary by his act or default ; (*d*) where the owner of land in the occupation of a tenant has unreasonably neglected to execute thereon the necessary works of maintenance not being works to which the preceding paragraph applies. The "rules of good husbandry" are defined in section 33 (4) of the Act (see *ante* p. 15) and "necessary works of maintenance" are defined in section 4 sub. 9, and include the maintenance and clearing of drains, embankments and ditches, the maintenance and proper repair of fences, stone walls, gates and hedges, and the execution of repairs to buildings. In the case of

neglect to execute the necessary works of maintenance notice may be served on the tenant or owner, as the case may be, requiring him to execute the necessary works of maintenance within a specified time, and in any other of the above cases notices may be served on the occupier of the land (whether he is a tenant or owner) requiring him to cultivate the land in accordance with such directions as the Minister may give for securing that the cultivation shall be according to the rules of good husbandry, or for securing the necessary improvement in the existing method of cultivation, so however as not to interfere with the discretion of the occupier as to the crops to be grown. The person on whom notice has been so served may require the question whether the land has been cultivated according to the rules of good husbandry, or whether the production of food on the land can in the national interest be maintained or increased by means of the required improvement in cultivation, or whether such improvement will injuriously affect the persons interested in the land or alter the general character of the land, or whether the works required to be executed are necessary works of maintenance, to be referred to arbitration and the arbitrator will be nominated in default of agreement by the President of the Surveyors' Institution. An owner or occupier of land failing to comply with the requirements of a notice served will be liable on summary conviction to a fine not exceeding £20, and to a further fine not exceeding 20*s.* for every day of default after conviction. The Minister has also power to execute the work specified in any notice himself and to recover the cost from the person in default, and when a notice is served on an owner requiring him to execute necessary works of maintenance, and he fails to comply the Minister may authorise the tenant to execute the works and to recover the costs from the owner as if those costs were compensation awarded under the Agricultural Holdings Act, 1908. Where the Minister after consultation with the agricultural committee is of opinion that the owner of an agricultural estate "grossly mismanages

Sect. 4, sub-s. 7 (1920).

the estate to such an extent as to prejudice materially the production of food thereon or the welfare of those who are engaged in the cultivation of the estate," he may appoint a receiver and manager of the estate or part thereof and may apply any of the provisions of section 24 of the Conveyancing Act, 1881 (44 & 45 Vict. c. 41), which applies to the powers, remuneration and duties of receivers appointed by mortgagees, and may authorise the receiver and manager to exercise such other powers vested in the owner of the estate as may be specified. The owner may appeal against such order to the High Court, and he may at any time after three years from the date of the order or after any change in the ownership of the estate apply to the Minister to have the order revoked, and in case of refusal the owner may appeal against the refusal to the High Court.

The Minister may also serve upon the occupier of land a notice requiring him to cut down or destroy injurious weeds growing on any land, and if he fails to comply he will be liable to the above mentioned penalties. Sect. 4, sub-s. 10 (1920).

Where crops, trees or pasturage are being damaged by reason of the failure of an occupier of land to destroy sufficiently the rabbits or vermin on the land in his occupation the Minister may, after giving the occupier and owner a reasonable opportunity of destroying the rabbits or vermin, authorise in writing any person to enter on the land and kill and take the rabbits or vermin thereon and recover from the occupier the net cost incurred in connection with the action so taken. It is to be noticed that the land on which the rabbits or vermin are to be destroyed under this provision need not necessarily be the land whereon the crops, trees or pasturage are being damaged. The damage may be caused by the default of a neighbouring owner or occupier to destroy vermin or rabbits, and it is against the owner or occupier so in default that the power of authorising entry and destruction is given. Sect. 10 (1917).

The Ministry may delegate their powers for the purpose of enforcing the proper cultivation of land in any area Sect. 11, sub-s. 2 (1917).

consisting of one or more counties or county boroughs to any body of persons constituted in the prescribed manner, and the Ministry of Agriculture and Fisheries Act, 1919 (9 & 10 Geo. 5 c. 91), expressly enables the Ministry subject to any restrictions or conditions they think fit to authorise an agricultural committee constituted under that Act or a sub-committee thereof to exercise on behalf of the Ministry any of the powers of the Ministry under the provisions of the Corn Production Act, 1917.

The powers previously exercisable by the Ministry under Regulations 2L and 2M of the Defence of the Realm Regulations, for ensuring the proper cultivation of land with a view to increasing the food supply, which were continued in operation by sub-section 3 of section 11 of the Act of 1917, ceased to operate on January 1st, 1921, the date of the commencement of the Act of 1920, except, in relation to any land of which the Minister was on that date in possession or any land to which on that date sub.-sect. 2 of section 30 of the Land Settlement (Facilities) Act, 1919 (9 and 10 Geo. 5 c. 59), applied, *i.e.*, land in respect of which a local authority was exercising powers under Regulation 2L.

5. *General.*

Sect. 12 (1917).

The Minister of Agriculture and Fisheries is given general power of making regulations for carrying the Act into effect, and in particular (a) for prescribing the manner in which claims for payment of the guaranteed prices of wheat or oats are to be made and as to the evidence to be required in support of any such claim, (b) for requiring the Agricultural Wages Board to define the benefits or advantages which may be reckoned as payment of wages in lieu of payment in cash and to determine any question which may arise as to the values of any such benefits or advantages or generally as to any contract of employment so far as the application of the provisions of the Act is concerned, and (c) for requiring the Agricultural Wages Board to define the employment which is to be treated

as overtime for the purpose of any differential rate for overtime employment.

The Minister is also given power to authorise the entry and inspection of any land and to appoint officers to secure the proper observance of Part II. of the Act of 1917 as to minimum wages, with powers of requiring the production for inspection of wages sheets, &c. He is also empowered to require returns in writing from occupiers of agricultural land or persons having the management thereof as to the cultivation of the land and the crops and live stock thereon, and a penalty is imposed for refusal to make such returns and for making false returns. Sect. 13 (1917). Sect. 14 (1917). Sect. 15 (1917).

Notices under the Acts generally may be given either personally or by registered post. Under Part IV. of the Act of 1917 they may be served personally on any owner or occupier of any land or any landlord or sent by post or left at his usual place of abode in the United Kingdom. Sect. 17 (1917). Sect. 7 (1920).

THE AGRICULTURAL HOLDINGS ACT, 1908.

(8 Edw. 7, c. 28.)

An Act to consolidate the Enactments relating to Agricultural Holdings in England and Wales.

[1st August, 1908.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Compensation for Improvements on Holdings.

§ 1. Right of tenant to compensation for improvements.

1.—(1.)[1] Where a tenant of a holding has made thereon any improvement comprised in the First Schedule to this Act [and in a case where the contract of tenancy was made on or after the first day of January, nineteen hundred and twenty-one, then whether the improvement was or was not an improvement which he was required to make by the terms of his tenancy][2] he shall, subject as in this Act mentioned, be entitled at the determination of a tenancy,[3] on quitting his holding,[4] to obtain from the landlord[5] as compensation under this Act for the improvement such sum as fairly represents the value of the improvement to an incoming tenant.[6]

(2.) In the ascertainment of the amount of the compensation payable to a tenant under this section there shall be taken into account—

(*a*) any benefit which the landlord has given or allowed to the tenant in consideration of the tenant

§ 1.

executing the improvement [whether expressly stated in the contract of tenancy to be so given or allowed or not];[7] and

(*b*) as respects manuring[8] as defined by this Act, the value of the manure required by the contract of tenancy or by custom to be returned to the holding in respect of any crops [grown on and] sold off or removed from the holding within the last two years of the tenancy or other less time for which the tenancy has endured, not exceeding the value of the manure which would have been produced by the consumption on the holding of the crops so sold off or removed.[9]

(3.) Nothing in this section shall prejudice the right of a tenant to claim any compensation to which he may be entitled under custom, agreement, or otherwise, in lieu of any compensation provided by this section.[10]

(1) This sub-section took the place of sect. 1, sub-sect. 1, of the Agricultural Holdings Act, 1900, and, but for the additions in square brackets, is in almost identical terms therewith, except that the proviso that, in estimating the value of any improvement, there should not be taken into account as part of the improvement made by the tenant what is justly due to "the inherent capabilities of the soil," is omitted.

"Inherent capabilities of the soil."

The proviso as to the "inherent capabilities of the soil" had been the subject of considerable difference of opinion. It was in the Agricultural Holdings Act, 1883, but the Royal Commission on Agricultural Depression, in the final report of the majority, recommended its omission. Notwithstanding this recommendation, the proviso was retained in the Agricultural Holdings Act, 1900, but was omitted in sect. 1, sub-sect. 1, of the Act of 1906, which this sub-section reproduces.

The proviso was probably intended originally, perhaps unnecessarily, to guard against the tenant's compensation including anything properly referable to the landlord's property, and its omission, it is submitted, should not materially alter the assessment of compensation. The key to the principles on which valuation of improvements should be based appears to be afforded by the concluding words of the sub-section. (See note (6), *post.*)

(2) The words in square brackets are inserted by the Agriculture Act, 1920, and are no doubt intended to get rid, in all cases of

tenancies entered into after 1st January, 1921, of the decision in *Galloway* (*Earl*) v. *McClelland* ((1915) S. C. 1062) where it was held that a tenant is not entitled to compensation under the corresponding section in the Agricultural Holdings (Scotland) Act, 1908, for making an improvement comprised in Schedule I. of the Act if the improvement was one which he was bound under his lease to execute. The word "if," or some such other word or words, was however accidentally omitted between the two first inserted words "and" and "the," with the unfortunate result that the section, as it stood, would confine the tenant's right to compensation for improvements to cases where the tenancy was entered into after 1st January, 1921, so that tenants under tenancies current on 1st January, 1921, would lose the benefits of the Act in respect of compensation for improvements. This obvious error has now been amended by the Agriculture (Amendment) Act, 1921, *post*, p. 228.

Determination of a tenancy.

([a]) "Determination of a tenancy" is interpreted in sect. 48 of this Act as meaning the cesser of a contract of tenancy by effluxion of time (as in the case of a lease for a term) or from any other cause (as by notice to quit, surrender, forfeiture, or re-entry for breach of covenant, &c.).

A tenancy from year to year is not determined by the death of the tenant, but vests in his personal representatives: *Doe* d. *Shaw* v. *Porter* (3 T. R. 13); *James* v. *Dean* (11 Ves. 383, 393).

A tenancy from year to year, implied under an agreement for a lease or a void lease, determines at the end of the term without notice: *Doe* d. *Tilt* v. *Stratton* (4 Bing. 446; 6 L. J. (O. S.) C. P. 50); see also *Walsh* v. *Lonsdale* (52 L. J. Ch. 2; 21 Ch. D. 9).

Disclaimer.

If a trustee in bankruptcy disclaims a lease vested in the bankrupt, "the disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests, and liabilities of the bankrupt and his property in or in respect of the property disclaimed"; Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), s. 54, sub-s. 2.

The effect of the disclaimer, when executed, is that neither the lessor nor the trustee can claim the benefit of any provisions contained in the lease which were to come into operation at the expiration or sooner determination of the term (*Ex parte Sir W. Hart Dyke*, *In re Morrish* (52 L. J. Ch. 570; 22 Ch. D. 410)), and the trustee who disclaims cannot claim compensation under the Act: *Schofield* v. *Hincks* (58 L. J. Q. B. 147; 60 L. T. 573).

Forfeiture.

A lease may be determined by a proviso for forfeiture on breach of covenant, or on the happening of some event, such as the bankruptcy of the lessee; but it is to be remembered that the Conveyancing Act, 1881, s. 14, makes it necessary in most cases to serve a notice requiring the lessee to remedy the breach complained of, and

§ 1. to make compensation for the breach before the right of re-entry can be enforced. That section does not extend to a covenant or condition against assigning, underletting, or parting with the possession of the land leased, or (in the case of a lease of agricultural land) to a condition for forfeiture on the bankruptcy of the lessee or on the taking in execution of his interest.

In the case of a lease containing a proviso for re-entry on breach of covenant (but not making the lease *ipso facto* void on that event), the commencement of an action by the lessor to recover possession of the property for breach of covenant will, without actual entry, operate to determine the lease: *Serjeant* v. *Nash, Field & Co.* (72 L. J. K. B. 630; (1903) 2 K. B. 304); *Moore* v. *Ullcoats Mining Co.* (77 L. J. Ch. 282; (1908) 1 Ch. 575).

Where there was a lease for twenty-one years, with a proviso that the lease might be determined by the lessee at the end of seven or fourteen years, and it was agreed that the landlord should pay the tenant compensation for seeds, gooseberry and currant bushes, &c., "at the end of the term," the Court held that the tenant was entitled to compensation, although he determined it at the end of fourteen years: *Bevan* v. *Chambers* (14 Times L. R. 417).

Repudiation of the landlord's title.

A tenancy may also be determined by the lessee's repudiation of the landlord's title. In *Vivian* v. *Moat* (50 L. J. Ch. 331; 16 Ch. D. 730), the defendants disputed the plaintiffs' alleged right to raise their rent, but were willing and offered to pay what was due in respect of a customary rent-charge. It was held that this was a repudiation of the relation of landlord and tenant, and that the plaintiffs were entitled to eject without proving a valid notice to quit.

Surrender.

A surrender is another mode of determining a tenancy. Every surrender by act of the parties must be in writing, and if the term be for more than three years, it must be by deed: Real Property Amendment Act, 1845 (8 & 9 Vict. c. 106), s. 3.

A surrender may also take place by act and operation of law, as by the acceptance of a new lease by the tenant, or by a mutual agreement between landlord and tenant, followed by the granting of a new lease to a stranger with the assent of the lessee. See Dixon, p. 496.

In *Whittaker* v. *Barker* (1 C. & M. 113), a tenant under an agreement for a lease for fourteen years was to receive compensation on quitting his farm, according to a valuation to be then made, for the tillages and improvements he might leave on the farm. On account of some dispute the tenant said he would quit at the end of the year, and the landlord said he might. He did so. The Court held that such a quitting was not a quitting under the terms of the

tenancy, but in reality a running away, and the landlord was entitled to possession without making any compensation for tillages and improvements. In a Scottish case of *Todd* v. *Bowie* (4 Fraser, 435), it was held that where a tenant who, under a lease for nineteen years, left at the end of the third year in consequence of the landlord's failure to put the fences into repair, there was not a "determination of the tenancy" within the definition in sect. 42 of the Agricultural Holdings (Scotland) Act, 1883, which corresponds with that in sect. 48 of this Act.

At what time the tenant is entitled to compensation.

(4) The tenant "must quit his holding" in order to become entitled to obtain compensation for improvements. The "sitting tenant," as he is called, whose rent is raised is not so entitled, though in such a case it is in the tenant's power either to give up his holding, receiving the compensation to which he is entitled, or to elect to continue at the new rent. A tenant who remains in his holding, and submits to a change of the terms under which he holds, will not thereby lose his right to compensation on finally quitting the holding in respect of improvements made by him during the earlier tenancy. See sect. 8.

In cases where, by the custom of the country or the terms of the letting, the tenant is not bound to deliver up possession of the whole of his holding at the same time, but retains part temporarily, the result of the authorities seems to be that the tenancy will be taken to have determined in respect of each part of the holding when the tenant actually gives up possession. He will therefore be entitled to compensation for any improvement effected "on quitting" that parcel of the whole holding upon which the improvement was executed: see *Black* v. *Clay* ((1894) A. C. 368); *Morley* v. *Carter* (66 L. J. Q. B. 843; (1898) 1 Q. B. 8); *Re Paul, Ex parte Portarlington* (*Earl*) (59 L. J. Q. B. 30; 24 Q. B. D. 247).

Case where the landlord is himself a leaseholder.

(5) Where the landlord is himself a leaseholder, it would seem that he cannot, on the expiration of his lease, recover from his own superior landlord compensation in respect of money paid under the Act to the tenant who has been in actual occupation, for the intermediate landlord can scarcely be said to have "made" the improvement.

Value of the improvement.

(6) The concluding words of this sub-section are most important as showing the basis on which compensation is to be assessed. It is to be ascertained by estimating "the value of the improvement" to an incoming tenant, not by the cost incurred in effecting it, with a proportionate deduction for each year while the tenancy lasts, which was the method of valuation under the Agricultural Holdings Act, 1875. The "value to an incoming tenant" may differ very much from the value arrived at by the ascertainment of the cost

§ 1. incurred, for though the latter may have been great, the present value may be very small, or *vice versa*.

Proper method of valuation.

It is submitted that the proper way of valuing any improvement is not by taking the cost to the tenant who makes it, but by ascertaining (a) the capital sum, or (b) the extra rent which it would reasonably be worth the while of an incoming tenant to pay beyond the fair rental of the land without the improvement in consideration of having the benefit of the improvement as it stands on the determination of the previous tenancy. The sum payable by the landlord for the improvement will be either (a), or (b) capitalized at so many years' purchase as will accord with the probable duration of the value of the improvement, subject in either case to any deductions necessary under sub-sect. 2. In order to avoid giving the tenant anything which is properly due to the landlord's interest in the soil, the unimproved value must not be taken at the rental value to a tenant without the improvement which might, as pointed out above, in some cases be nil, but its value, assuming the possibility of the improvement by the expenditure of the money required for that purpose, to a tenant able and willing to make the expenditure. This is adopted as the proper basis of valuation by the Report of a Committee appointed by delegates from fifteen Tenant-right Valuers' Associations in 1908, which contains the following passage as to the omission of the proviso relating to "inherent capabilities": "Some words referring to these which were in sect. 1 of the 1900 Act are omitted in sect. 1 of the 1906 Act; but valuers will agree that compensation for an improvement made by a tenant should not be enhanced by the inherent capabilities of the soil. The practice in the future should therefore be the same as in the past." In a Scottish case, *Brown* v. *Mitchell* (1910, Sess. Cas. 369), it was held that the word "value" used in a lease in connection with feeding stuffs meant the original manurial value of the feeding stuffs, *i.e.* the value of the manurial constituents of the feeding stuffs before they were consumed. The terms of the lease allowed compensation for a proportion only of such value after consumption on the holding, and this provision was held valid as between landlord and tenant.

(7) This sub-section provides for cases, amongst others, where the landlord may, in consideration of the execution of an improvement by the tenant, have allowed him to hold his farm at a rent below its full value. The words in square brackets are inserted by the Agriculture Act, 1920, no doubt to meet the Scottish case of *M'Quater* v. *Fergusson* ((1911) S. C. 640), where a tenant, who was bound by his lease to apply a certain amount of purchased artificial manure to the land, claimed on quitting compensation for the unexhausted value of artificial manure so applied and the landlord

disputed the claim on the ground that the tenant had received a "benefit" in the sense of section 1, sub-section 2 (a) namely, the benefit of having to pay less rent than he would otherwise have had to pay. It was held that such an implied benefit was not a "benefit" in the sense of the section.

On the other hand, in *Galloway* (*Earl*) v. *M'Clelland* ((1915) S. C. 1062), it was held that temporary pasture handed over to a tenant free of charge on his entry, though not specially mentioned in the lease, might be taken into account as a benefit under this sub-section to be set against compensation payable to the tenant in respect of temporary pasture laid down by him.

"Manuring."

([8]) "Manuring" is defined by sect. 48 as referring to the improvements numbered 23, 24 and 25 in Part III. of the 1st Schedule and includes both chemical and animal manures.

([9]) It is presumed that "the value of the manure required, &c." is not to be taken into account in reduction unless such value has not in fact been returned to the holding, though this is not expressly so stated. In any case, the amount taken into account is not to exceed the actual value of the manure which would have been produced by consumption on the holding of the crops sold or removed; so that where a lease or tenancy agreement provides, as is sometimes the case, for the return of manure in excess of the manurial value of the crops sold off, with a view of penalizing and so preventing any sale or removal, such excess will not be taken into account under this section.

If the lease or tenancy agreement or the custom of the country simply prohibits the sale or removal of hay or straw without providing for a return of manure, and the tenant sells or removes in breach of his agreement, as he may do under sect. 26, sub-sect. 1, this sub-section is inapplicable; but under the proviso in sect. 26, sub-s. 1, the tenant is, in that case, bound to make suitable and adequate provision to protect the holding from injury or deterioration, consisting in the return to the holding of the full equivalent manurial value of the crops sold off or removed, and in default of his doing so the landlord may recover damages in respect of the injury or deterioration: see *post*, p. 72.

Claim may be made under custom, &c.

([10]) This sub-section repeats sect. 1, sub-s. 5, of the Agricultural Holdings Act, 1900, which effected a very important alteration as to the right to compensation. By sect. 57 of the Agricultural Holdings Act, 1883, a claim under the custom of the country was excluded in respect of any improvement to which the Act applied, and there was no option to the tenant of claiming except under the Act, although the custom might have been more advantageous to him. He might, however, have claimed under an agreement altogether outside the Act: *Newby* v. *Eckersley* (68 L. J. Q. B. 261;

§§ 1, 2.

(1899) 1 Q. B. 465); *Re Pearson and I'Anson* (68 L. J. Q. B. 878; (1899) 2 Q. B. 618). Now the tenant can claim (a) under the Act; (b) under the custom of the country; (c) under agreement; or (d) otherwise. These various methods of obtaining compensation are, no doubt, mutually exclusive as to any particular improvement, but may be made use of side by side as regards different improvements. See *Re Smith and Duke of Devonshire* (22 T. L. R. 619).

For the law as to customs of the country, see Dixon, pp. 587 *et seq.*, and for a statement of the customs prevailing in different counties see pp. 710 *et seq.* As a rule, the custom of the country does not provide compensation for "improvements" except in respect of purchased or artificial manures applied in growing a root or other fallow crop.

Consent of landlord as to improvement in 1st Sched. Part I.

2.[1] Compensation under this Act shall not be payable in respect of any improvement comprised in Part I. of the 1st Schedule hereto, unless the landlord[2] of the holding has, previously to the execution of the improvement,[3] consented in writing to the making of the improvement, and any such consent may be given by the landlord unconditionally, or upon such terms as to compensation or otherwise as may be agreed upon between the landlord and the tenant, and, if any such agreement is made, any compensation[4] payable under the agreement shall be substituted for compensation under this Act.

(1) This section reproduces, with a few verbal alterations, sect. 3 of the Agricultural Holdings Act, 1883. Section 15 of the Agriculture Act, 1920, considerably enlarges its scope, as it provides by sub-section 1 means by which the consent of the landlord may be dispensed with in case of an improvement comprised in Part I. of the First Schedule (other than the erection, alteration or enlargement of buildings or an improvement comprised in the Third Schedule to this Act) which is declared by regulation of the Minister to be an improvement to which the sub-section relates (see *post*, p. 199).

(2) The words "or his agent duly authorized in that behalf," which were contained in the Act of 1883, after the word "landlord," are here omitted, but the omission does not appear to be material, as the consent of a duly authorized agent to an act within the scope of his authority would in any case bind his principal. Probably an agent having the general management of an estate would be held to have an implied authority to consent to improvements on

Authority to agent to consent.

behalf of the landlord. See *Re Pearson and I'Anson* (68 L. J. Q. B. 878; (1899) 2 Q. B. 618), where it was held that it was within the scope of an agent entrusted with the management of an estate to consent to the alteration of a farm to a market garden, so as to give the tenant the right to a market garden valuation. On the other hand, in *Turner* v. *Hutchinson* (2 F. & F. 185) it was held that a farm bailiff accustomed to let farms upon the ordinary terms and receive the rents, etc., had no authority to let upon unusual terms unknown to the owner.

When the consent must be given.

(3) It is to be noticed that the consent must be given before the improvement is executed. A subsequent consent will not enable the tenant to claim compensation in respect of an improvement made after the commencement of the Act. The consent may be general and given by the terms of the lease under which the tenant holds. In *Mears* v. *Callender* (70 L. J. Ch. 621; (1901) 2 Ch. 388) the lease permitted the tenant at his own cost to "convert into orchard so much of the meadow land surrounding the house as he may think proper." It was held that this power was a consent in writing by the landlord to the planting of fruit trees, which gave the tenant the right to compensation at the end of his tenancy for trees so planted. In *Re Morse and Dixon* (1917) (87 L. J. K. B. 1) a clause in a lease providing that if the tenant should plant any part of the land with fruit trees, bushes or plants and should desire at the expiration of the tenancy to remove them he should be allowed before a certain date to do so, but with an option to the landlord of purchasing, was held not to be a consent in writing by the landlord to the planting as an improvement so as to bring the case within this section and enable the tenant to obtain compensation under the Act.

Where a tenant has a claim for planting fruit bushes with the consent of the landlord and the land is sold, as between vendor and purchaser, the tenant's claim for compensation must be borne by the purchaser. The purchaser having notice of the tenancy must be taken as knowing that there is a liability for compensation. Such a liability is not in the nature of an incumbrance which should be disclosed by the vendor: *Re Derby (Earl) & Ferguson's Contract* (81 L. J. Ch. 567; (1912) 1 Ch. 479).

Adequacy of compensation.

(4) Nothing is said in this section as to the adequacy of the compensation under any agreement to exclude a claim for compensation under the Act. It differs in this respect from sect. 4, which says that in the case of improvements in the third part of the 1st Schedule the compensation agreed upon must be "fair and reasonable" to oust the operation of the Act. It is presumed that, in analogy to the rule which precludes it from weighing the adequacy of the consideration for a contract, the Court would not enter into the adequacy of the compensation under this section, and that any

§§ 2, 3. compensation not being so small as to be illusory would be sufficient. A landlord cannot impose as a condition of his consent to the terms that no compensation shall be paid: per Cozens-Hardy, J., in *Mears* v. *Callender* (70 L. J. Ch. 624; (1901) 2 Ch. 388).

See Forms 1, 2, 3 for consent and agreements.

Notice to landlord as to improvement in 1st Sched. Part 2.

3.—(1.) Compensation under this Act shall not be payable in respect of any improvement comprised in Part II. of the 1st Schedule hereto,[1] unless the tenant of the holding has, not more than three nor less than two months[2] before beginning to execute the improvement, given to the landlord notice in writing of his intention so to do, and of the manner[3] in which he proposes to do the intended work, and, upon such notice being given, the landlord and the tenant may agree on the terms as to compensation[4] or otherwise on which the improvement is to be executed.

(2.) If any such agreement is made, any compensation payable under the agreement shall be substituted for compensation under this Act.

(3.) In default of any such agreement the landlord may, unless the notice of the tenant is previously withdrawn,[5] execute the improvement in any reasonable and proper manner[6] which he thinks fit, and recover from the tenant as rent a sum not exceeding five per cent. per annum on the outlay incurred, or not exceeding such annual sum payable for a period of twenty-five years as will repay that outlay in that period, with interest at the rate of three per cent. per annum.[7]

Provided that, if the landlord fails to execute the improvement within a reasonable time,[8] the tenant may execute the improvement, and shall in respect thereof be entitled to compensation under this Act.

(4.) The landlord and the tenant may by the contract of tenancy or otherwise agree to dispense with any notice under this section, and any such agreement may provide for anything for which an agreement after notice under this section may provide, and in such case shall be of the same validity and effect as such last-mentioned agreement.[9]

§ 3.

(1) This section took the place of sect. 4 of the Agricultural Holdings (England) Act, 1883, and deals with improvements under the second part of the First Schedule, which includes only drainage; but under section 15 sub-s. 1 of the Agriculture Act, 1920, by a regulation of the Minister of Agriculture and Fisheries and the direction of an agricultural committee, certain of the improvements in the first part of the First Schedule may be brought within its scope (see *post*, p. 199).

(2) "Month" in an Act of Parliament means calendar month; see Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 3. Meaning of "month."

(3) "The manner" would include such particulars as the size of pipes, depth, direction, &c., of proposed drainage works. The "manner" of executing the proposed work.

See Form 4.

(4) See note (4) to sect. 2.

(5) It is to be noticed that the tenant may, before the landlord executes the improvements, withdraw his notice, so as to take away from the landlord the power of executing the improvement and charging the tenant with interest on any outlay incurred by him in the work. Tenant may withdraw his notice.

Sect. 4 of the Act of 1883 contained here the words "undertake to execute the improvement himself and may," so that before the landlord proceeded to execute the work there had to be a preliminary undertaking to do so. The landlord may now, under the present section, on receiving notice from the tenant, at once proceed to execute the work required, unless the notice of the tenant is previously withdrawn.

(6) The landlord is not, by the words of the section, bound to execute the drainage works in the manner proposed by the tenant, but must do so in a "reasonable and proper manner."

(7) The percentages and period mentioned in this sub-section may be altered by regulation of the Minister under sect. 15, sub-s. 2 of the Agriculture Act, 1920 (*post*, p. 199) having due regard to the current rates of interest. See regulation in this behalf in Appendix III., Part I.

Money may be obtained by landowners for drainage in various ways. Capital money under the Settled Land Act, 1882, may, under sect. 25 of that Act, on a certificate of the Ministry of Agriculture and Fisheries, or of a competent engineer, or an order of the Court, be applied in drainage. A tenant for life of settled land is thus enabled to sell a portion of his estate for the purpose of executing drainage works on other portions. Capital money under the Settled Land Act, 1882.

Under sect. 20 of this Act, capital money arising under the Settled Land Acts, 1882 to 1890, may be applied in payment of any moneys expended and costs incurred by a landlord in or about the execution of any improvement mentioned in the 1st or 2nd parts of the Schedule hereto.

§§ 3, 4.

Facilities given by the legislature for the raising of money for drainage.

Under the Land Drainage Act, 1845 (8 & 9 Vict. c. 56), tenants for life are empowered to apply to the Court of Chancery for leave to make permanent improvements by draining; and if in the opinion of the Court such improvements would be beneficial to all persons interested, the money expended in making such improvements may be charged on the inheritance of the land with interest at a rate not exceeding 5 per cent. per annum, payable half-yearly; the principal is to be repaid in equal annual instalments, not less than twelve nor more than eighteen in number.

Under certain Acts, called the Public Money Drainage Acts, 1846 to 1856 (9 & 10 Vict. c. 101; 10 & 11 Vict. c. 11; 11 & 12 Vict. c. 119; 13 & 14 Vict. c. 31; 19 & 20 Vict. c. 9), any owner of land (including a tenant for life) may obtain advances from the public funds for works of drainage to be executed upon a certificate of the Inclosure Commissioners (now the Ministry of Agriculture and Fisheries). The works must be executed within five years, and the amount is to be repaid by means of a rent-charge of 6*l.* 10*s.* for twenty-two years for every 100*l.* advanced.

Under the Improvement of Land Act, 1864 (27 & 28 Vict. c. 114), "improvements of land" include drainage, and provision is made facilitating the borrowing of money by landowners from land improvement companies and others for such improvements. The rate of interest to be charged is not to exceed 5*l.* per cent. per annum, repayment is by instalments, and the term for repayment is, under the Improvement of Land Act, 1899 (62 & 63 Vict. c. 46), such period not exceeding forty years as the Ministry of Agriculture and Fisheries, having regard in each case to the character and probable duration of the improvement, determine.

What would be a "reasonable" time for the execution of the improvement.

(8) What would be a "reasonable time" within which the landlord should execute the improvement must be determined according to the circumstances in each particular case in which the question arises. As drainage works are generally executed in the winter or early spring, it is suggested that the improvement should be executed not later than the winter or spring next following the notice.

(9) An agreement to dispense with notice under this section need not be in writing: *Hamilton Ogilvy* v. *Elliot* (7 Fraser, 1115). In *Barbour* v. *M'Douall* ((1914) S. C. 844) it was held that an agreement to dispense with the notice required could not be inferred upon the facts there proved. See Forms 5 and 6.

Agreements as to improvement in 1st Sched. Part 3

4.[1] Where any agreement in writing secures to the tenant of a holding for any improvement comprised in Part III. of the 1st Schedule hereto, fair and reasonable[2] compensation, having regard to the circumstances existing at the time of making the agreement,[3] the compensation

so secured shall as respects that improvement be substituted for compensation under this Act. § 4.

(1) This section reproduced the material part of sect. 5 of the Agricultural Holdings (England) Act, 1883, omitting the parts of the section referring to tenancies current at the commencement of that Act. The word "particular" before "agreement in writing," the meaning of which was uncertain, was, however, omitted. The improvements comprised in Part III. of the 1st Schedule are mainly improvements which tend to increase the fertility of the soil by the application of manures, &c., but where section 42 of this Act applies the improvements comprised in the Third Schedule, viz. planting of fruit trees, fruit bushes, strawberry plants, &c., are to be treated as comprised in Part III. of the First Schedule.

Except as to any agreement entered into before January 1st, 1921, this section as from that date no longer applies to all improvements comprised in Part III. of the First Schedule, but applies only to the improvements of a market garden nature to which the provisions of section 42 of this Act apply, or are directed under section 15, sub-sect. 3 of the Agriculture Act, 1920, to apply. In other words as from the date mentioned all improvements not mentioned in the Third Schedule to this Act are excluded from the operation of the section, and no agreement for "substituted compensation" in respect of the excluded improvements is good. (See Agriculture Act, 1920, section 27, *post*, p. 213.) Unless therefore the parties without resorting to arbitration agree as to amount, the compensation must be assessed by the arbitrator in every case.

"Fair and reasonable" compensation.

(2) The words "fair and reasonable" distinguish the compensation, which excludes the operation of the Act, in this section from that mentioned in sects. 2 and 3 (see note (4) to sect. 2). In the case of dispute as to the adequacy of an agreement under this section, the question may, it would seem, be decided by arbitration under sect. 6. In the Scottish case of *Bell* v. *Graham* (1908, Sess. Cas. 1060) the majority of the Court of Session held that where an agreement has been made for substituted compensation an arbitrator to whom the question of compensation claimed by the tenant has been referred is bound to decide whether the scale of compensation was at the date of the making of the agreement "fair and reasonable." The Court considered, however, that his decision on this question might be challenged in a process of interdict or of reduction (which would correspond to prohibition in an English Court). The Lord President in the course of his judgment said, "If parties of full age sign an agreement the presumption of fact is very strong that it is fair and reasonable." This presumption is no doubt equally strong

§§ 4, 5.

in English Law and may properly be acted upon by an arbitrator who has to decide the question of fairness and reasonableness.

"Having regard to the circumstances existing at the time."

(3) In estimating the fairness of an agreement, the state of the farm, and other circumstances, at the time of the making of the agreement must be considered, not its value at the time of its application. An increase in the value of the farm may have been caused meanwhile by extraneous circumstances, and the improvement may thereby have become far more valuable.

See Form 8.

Avoidance of contract inconsistent with Act.

5. Subject to the foregoing provisions of this Act, any contract (whether under seal or not) made by a tenant of a holding, by virtue of which he is deprived of his right to claim compensation under this Act *in respect of any improvement comprised in the* 1*st Schedule hereto*,[1] shall be void so far as it deprives him of that right.[2]

(1) The words in italics are to be omitted by virtue of the Agriculture Act, 1920, Schedule I. The tenant's inalienable right to compensation under this Act as amended by the Act of 1920 is not now confined to the improvements in the First Schedule.

(2) This section replaces sect. 55 of the Act of 1883, and makes the operation of the Act compulsory in respect of all tenancies to which the Act applies.

The Act does not apply to a tenant holding land for a less period than one year (see the definitions of "contract of tenancy" and "tenant" in sect. 48), *e.g.*, under a letting of pasture land for the summer months, and it has been suggested that the compulsory effect of the Act may be avoided by means of an agreement for a half-yearly or quarterly letting, determinable by notice at the end of any half-year or quarter; but a letting "at the rent of 19*l.* 12*s.* a year payable quarterly on the four usual quarter-days for payment of rent in every year" is a tenancy from year to year, and therefore within the Act, notwithstanding that it is provided that it may be determined by a three months' notice to quit on any day of the year: *King* v. *Eversfield* (66 L. J. Q. B. 809; (1897) 2 Q. B. 475). See also *Lewis* v. *Baker* (75 L. J. K. B. 848; (1906) 2 K. B. 599).

Other methods suggested for excluding this Act are a reservation of penal rents for improvements executed without the landlord's consent, and a covenant not to execute any improvements without the landlord's consent; but it is doubtful if either of these expedients would be valid under this section. It has also been suggested that a higher rent might be reserved during the last two or three

years of a term, reducible to the normal rent on the execution in each year by the tenant of improvements of a certain value within the third part of the schedule, in which case the amount to be taken off from the rent could be deducted from the amount payable for compensation, as being a "benefit allowed in consideration of the tenant executing the improvement." See sect. 1, sub-sect. 2 (*a*).

Another suggested mode of excluding the Act is by a letting for a year less one day, to be renewed for a like period at the expiration of each period of 364 days; but the inconveniences of such an arrangement are likely to preclude its adoption except in very exceptional cases.

The Act may also be expressly excluded by agreement in a contract of tenancy which comprises "non-statutory land" in addition to agricultural land. (See Agriculture Act, 1920, sect. 24, *post*, p. 211).

The effect of the corresponding section (sect. 55) of the Act of 1883 was considered by Stirling, L.J., in *Re Smith and Duke of Devonshire* (22 T. L. R. 619), and it was pointed out that the section did not prohibit the landlord or tenant from entering into covenants or agreements which would prevent the tenant from claiming, or induce him not to claim, compensation under the Act, but that the Act of 1900, by sect. 1, sub-sect. 5 (sect. 1, sub-sect. 3, of the present Act), recognized the validity of agreements for compensation in lieu of compensation under the Acts then in force. In that case, however, it was held that a fixed sum specified in a lease of a market-garden, made in 1888, as compensation for the exercise by the lessor of a power reserved to him by the lease of resuming possession of any part of the land on giving six calendar months' notice to the lessee, did not deprive the lessee of the right to claim compensation in respect of fruit trees permanently set out on the land subsequently to January 1st, 1896, when the Market Gardeners' Compensation Act, 1895, came into operation, under the provisions of which he claimed.

In *Brown* v. *Mitchell* (1910, Sess. Cas. 369) it was held in Scotland that a schedule to a lease providing compensation for unexhausted manures, the rates of which were not challenged as being otherwise than "fair and reasonable" within sect. 4, was not void under this section because, after specifying the compensation to be paid for lime, crushed bones and bone meal and dissolved bones, bone phosphate, guano and police manure, it provided that other artificial manures should be considered exhausted by the first crop and give no right to compensation. In *Cathcart* v. *Chalmers* (80 L. J. P. C. 143; (1911) A. C. 246) it was held by the House of Lords that a clause in a lease by which it was provided that an agricultural tenant should make no claim under the Act for improvements

§§ 5, 6. "later than one month prior to the determination of the tenancy" is void, as being inconsistent with the provisions of the Act (sect. 6, sub-s. 2 of this Act) by which he is entitled to make the claim at any time before the determination of the tenancy. Such a provision tends to deprive him of his right to claim compensation under the Act.

Determination of claims to compensation.

6.—(1.) If the tenant of a holding claims to be entitled to compensation, whether under this Act, or under custom or agreement, or otherwise, in respect of any improvement comprised in the 1st Schedule to this Act, and if the landlord and tenant fail to agree as to the amount and time and mode of payment of the compensation, the difference shall be settled by arbitration.[1]

(2.) *A claim by the tenant of a holding for compensation under this Act in respect of any improvement comprised in the 1st Schedule to this Act shall not be made unless notice of intention to make the claim has been given before the determination of the tenancy.*

Provided that, where the claim relates to an improvement executed after the determination of the tenancy but while the tenant lawfully remains in occupation of part of the holding, the notice may be given at any time before the tenant quits that part.[2]

(3.) *Where any claim by a tenant of a holding for compensation in respect of any improvement comprised in the 1st Schedule to this Act is referred to arbitration, and any sum is claimed to be due to the tenant from the landlord in respect of any breach of contract or otherwise in respect of the holding, or to the landlord from the tenant in respect of any waste wrongfully committed or permitted by the tenant, or in respect of breach of contract or otherwise in respect of the holding, the party claiming that sum may, if he thinks fit, by notice in writing given to the other party not later than seven days after the appointment of the arbitrator, require that the arbitration shall extend to the determination of the claim to that sum, and thereupon the provisions of this Act with respect to arbitration shall apply accordingly.*[3]

§ 6.

(4.) Where a claim for compensation under this Act has been referred to arbitration, and the compensation payable under an agreement is by this Act to be substituted for compensation under this Act, such compensation as is to be so substituted shall be awarded in respect of any improvements provided for by the agreement.[4]

(1) The arbitration will be before a single arbitrator, as provided by sect. 13, but arbitration will only take place if the landlord and tenant fail to agree. For the purpose of ascertaining the quantum of the claim, the usual custom is to employ valuers on either side. It is only when it is apparent that the valuers are unable to agree as to the amount payable, that it becomes necessary to resort to a formal arbitration. See the definition of "agreement" in sect. 48, as including an agreement arrived at by means of valuation. See Form 33 for agreement as to compensation.

A claim for compensation must be settled by agreement between the parties or referred to arbitration, and cannot be the subject of a counter-claim in an action: *Gas Light and Coke Co.* v. *Holloway* (52 L. T. 434); *Schofield* v. *Hincks* (58 L. J. Q. B. 147).

Notice of claim.

(2) This and the following sub-section are repealed by the Agriculture Act, 1920. Under the Agricultural Holdings Act, 1883, s. 7, a tenant claiming compensation was obliged to give notice in writing to the landlord at least two months before "the determination of the tenancy," which was held to mean its determination as an agricultural tenancy, although the buildings might be retained until a later date: *Morley* v. *Carter* (66 L. J. Q. B. 843; (1898) 1 Q. B. 8). If a substantial part of the farm was retained under custom or stipulation in the lease after some part had been given up, the notice in respect of the part retained might have been given two months before it was given up: *Re Paul, Ex parte Portarlington (Earl)* (59 L. J. Q. B. 30; 24 Q. B. D. 247); *Black* v. *Clay* ((1894) A. C. 368). Under this sub-section it was only required that the claim should be made before the determination of the tenancy, or in case of an improvement executed after the determination of the tenancy on part of the holding of which the tenant lawfully remained in occupation under custom or by agreement, then before the tenant quitted the part so occupied. Now all that is required is that particulars of any claim for compensation under this Act or for any money claimed to be due to the tenant from the landlord or any claim by the landlord against the tenant for waste or breach of contract shall be given to the landlord before the expiration of two months from the termination of the tenancy, otherwise such claim will be unenforceable. See Agriculture Act, 1920, sect. 18, sub-s. 2 (*post*, p. 206).

§§ 6, 7.

Inclusion of other differences in arbitration.

(3) Sub-sect. 3 is repealed by the Agriculture Act, 1920, and sect. 18 sub-s. 1 of that Act provides for the determination of all claims, questions and differences between the landlord and tenant in respect of the holding by arbitration (*post*, p. 206), the only notice of any claim required being, as above-mentioned, the giving of particulars before the expiration of two months after the termination of the tenancy. See sect. 18, sub-s. 2.

(4) Under sects. 2, 3 (2), and 4, compensation under agreements may be substituted for compensation under the Act. When there has been any such agreement and a claim is made for compensation, the arbitrator will be bound to follow the agreement and make his award in pursuance of it. The agreement, if made under sect. 4 in respect of an improvement to which that section applies, must be "fair and reasonable" to exclude the right to claim under the Act. The question whether an agreement set up in answer to a claim under the Act secures to the tenant "fair and reasonable compensation" is a "difference" which is to be settled by arbitration under sub-sect. 1 of this section. This has been so held in Scotland in the case of *Bell* v. *Graham* (1908 Sess. Cas. 1060).

Right of tenant who has paid compensation to outgoing tenant.

7. Where an incoming tenant of a holding has, with the consent in writing of his landlord,[1] paid to an outgoing tenant any compensation payable under or in pursuance of this Act in respect of the whole or part of any improvement, the incoming tenant shall be entitled on quitting the holding to claim compensation in respect of the improvement or part in like manner, if at all, as the outgoing tenant would have been entitled if he had remained tenant of the holding, and quitted it at the time at which the incoming tenant quits it.

(1) It is to be noticed that the consent in writing of the landlord is necessary to enable an incoming tenant to avail himself of this section. As compensation is in practice very generally paid in this way by the incoming to the outgoing tenant, the former should, in order to preserve his rights, be careful to get the written consent of the landlord before making any payment.

See Form 34

In respect of any improvement upon land agreed to be let or treated as a market garden, the consent of the landlord to the purchase by the incoming tenant is not necessary. See sect. 42 sub-sect. 1 (i) (*c*).

Provision as to change of tenancy.

8. A tenant who has remained in his holding during two or more tenancies shall not, on quitting his holding, be deprived of his right to claim compensation under this Act in respect of improvements by reason only that the improvements were not made during the tenancy on the determination of which he quits the holding.[1]

(1) This section supplements sect. 1, sub-sect. 1, so that a tenant will on quitting his holding be entitled to compensation for improvements made at any time during his occupation, notwithstanding any re-letting or change of the tenancy or the terms under which he holds. It would seem to cover the case of a sale of the land held by the tenant during the currency of his tenancy. His right in such a case will continue against the purchaser, and may be made whenever he quits the holding.

Restriction in respect of improvements by tenant about to quit.

9.—(1.) A tenant of a holding shall not be entitled to compensation under this Act in respect of any improvements, other than manuring[1] as defined by this Act, begun by him,—

(*a*) in the case of a tenant from year to year, within one year before he quits the holding, or at any time after he has given or received notice to quit which results in his quitting the holding; and

(*b*) in any other case, within one year before the expiration of his contract of tenancy:

Provided that this section shall not apply in the case of any improvement—

(i) Where the tenant, previously to beginning the improvement, has served notice on his landlord of his intention to begin it, and the landlord has either assented or has failed for a month after the receipt of the notice to object to the making of the improvement; or

(ii) In the case of a tenant from year to year, where the tenant has begun the improvement during the last year of his tenancy, and, in pursuance of a notice to quit thereafter given by the landlord,[2] quits his holding at the expiration of that year.

§§ 9, 10. (1) "Manuring" means any of the improvements numbered 23 24, and 25 in Part III. of the 1st Schedule to the Act. See sect. 48.

(2) Notice to quit might formerly have been given within the last year of a tenancy from year to year, if the operation of the now repealed sect. 22, which made a year's notice necessary in the absence of agreement to the contrary, had been excluded by express agreement between the landlord and tenant. Now under sect. 28, sub-s. 1 of the Agriculture Act, 1920, with certain exceptions, a notice to quit must be at least a twelve months' notice notwithstanding any agreement to the contrary. (*Post*, p. 214).

Compensation for Damage by Game and for Disturbance.

Compensation for damage by game.

10.—(1.)[1] Where a tenant of a holding has sustained damage to his crops from game the right to kill and take which is vested neither in him nor in anyone claiming under him other than the landlord,[2] and which the tenant has not permission in writing to kill,[3] he shall subject as hereinafter mentioned be entitled to compensation from his landlord for such damage if it exceeds in amount the sum of one shilling per acre of the area over which the damage extends, and any agreement to the contrary, or in limitation of such compensation, shall be void.

(2.) The amount of compensation payable under this section shall, in default of agreement made after the damage has been suffered, be determined by arbitration, but no compensation shall be recoverable under this section unless notice in writing is given to the landlord as soon as may be after the damage was first observed by the tenant and a reasonable opportunity is given to the landlord to inspect the damage—

(*a*) in the case of damage to a growing crop, before the crop is begun to be reaped, raised, or consumed; and

(*b*) in the case of damage to a crop reaped or raised before it is begun to be removed from the land—

and unless notice in writing of the claim, together with the particulars thereof, is given to the landlord within one month after the expiration of the calendar year, or such

other period of twelve months as by agreement between the landlord and tenant may be substituted therefor, in respect of which the claim is made.[4]

(3.) Where the landlord proves that, under a contract of tenancy made before the commencement of this Act, any compensation for damage by game is payable by him, or that in fixing the rent to be paid under such contract allowance in respect of such damage to an agreed amount was expressly made, the arbitrator shall make such deduction from the compensation which would otherwise be payable under this section as may appear just.[5]

(4.) Where the right to kill and take the game is vested in some person other than the landlord, the landlord shall be entitled to be indemnified by such other person against all claims for compensation under this section.[6]

(5.) For the purposes of this section the expression "game" means deer, pheasants, partridges, grouse, and black-game.[7]

(1) This section reproduces sect. 2 of the Agricultural Holdings Act, 1906, and is in identical terms.

(2) "Other than the landlord." These words are no doubt inserted to prevent the tenant losing his right by such a device as the non-reservation of game, and then a letting of the sporting rights by the tenant to the landlord, so that the landlord would claim "under" the tenant, and not in his own right.

The landlord is liable under the section not only for damage caused by game from his own coverts, but also when the damage is caused by game from a neighbouring estate. In *Thomson* v. *Galloway* (*Earl*) (1919) 56 Sc. L. R. 448) under the corresponding section of the Scottish Act a landlord was held liable for damage to his tenant's crops by winged game which came over from a neighbouring proprietor's land during the close season when nobody would have had a right to kill them.

(3) By common law, the tenant has the exclusive right to game on the land occupied by him, unless it is expressly reserved to the landlord (Dixon, p. 190); therefore this section can only operate in the case of land where the right of sporting is by the contract of tenancy expressly and exclusively reserved. Its operation, even when sporting rights have been reserved, can be avoided by a subsequent permission in writing to kill game given to the tenant.

§ 10.

Conditions of right to compensation.

(4) In order that a tenant who has sustained damage by game may have a right to compensation from the landlord the following conditions must have been complied with :—(i) The right to kill game must not be vested in him, or in anyone claiming under him other than the landlord; (ii) the damage must exceed 1*s.* per acre of the area over which it extends; (iii) notice in writing must be given to the landlord as soon as may be after the damage is first observed; (iv) reasonable opportunity must be given to the landlord to inspect the damage, if to a growing crop, before it is reaped, raised, or consumed; if to a crop reaped or raised, before it is begun to be removed from the land; (v) notice in writing of the claim, with particulars, must be given within one month after the expiration of the current calendar year, or other period of twelve months, to be agreed upon by the landlord and tenant.

Two notices, therefore, are necessary : one as soon as may be after the damage is first observed, drawing attention to it; the other making the claim, with particulars, to be given within one month after the expiration of the calendar year, or other period of twelve months agreed upon. If any of the above requirements are not fulfilled it would seem that the claim must fail.

In most cases the period of one month after the expiration of the calendar year will not be a convenient time for either party for the sending in of the notice of claim for damage by game, as, in the case of autumn-sown crops, it will at that early period generally be impossible to estimate accurately the damage caused. Three different dates have been suggested as convenient to be substituted for the end of the calendar year, viz. :—

(a) The date on which the tenancy would end in any year;

(b) February 1st, as being the end of the shooting season;

(c) October 1st, as the date by which harvest is generally completed. See Forms 29, 30, 31.

(5) This sub-section can only take effect in cases where, before 1st January, 1909, it has been agreed that the landlord should make compensation for damage by game, or there has been an *express* allowance in fixing the rent in respect of such damage. No tacit or unexpressed allowance will suffice, even though it is clear that the possibility of damage by game was one of the factors taken into consideration between the landlord and tenant in fixing the rent.

No arrangement entered into after January 1st, 1909, between landlord and tenant as to allowing any sum off the rent for damage by game will be effectual to prevent a claim under the Act. Theoretically, all land should be let at its full rental value without making any deduction for damage by game, otherwise the tenant may receive compensation twice over—first, under the contract of tenancy in the rent; secondly, by a claim under the Act.

(6) The Act makes the landlord liable to the tenant for damage by game not only when he has retained the right of shooting in his own hands, but also when he has let it to a shooting tenant. This clause gives the landlord who has let the shooting to a shooting tenant the right to recover by way of indemnity from that tenant the damage he may himself have had to pay for injury by game to the crops of his farming tenant. §§ 10, 11. Liability where right of shooting let.

It is advisable, when a landlord intends to claim this right of indemnity, that, in order that the amount payable may not be disputed by the shooting tenant, he should give notice to the latter as soon as he has himself received notice of damage from his farm tenant. The shooting tenant will then be able to satisfy himself by inspection as to damage done.

A shooting tenant may contract himself out of his liability under this sub-section.

Where the damage is caused not by game reared by the landlord but by game from the coverts of a neighbouring landowner which adjoin the agricultural land injured, no right of indemnity is given by the Act, but there would seem, on the principles laid down in *Farrer* v. *Nelson* (54 L. J. Q. B. 385; 15 Q. B. D. 258), to be a common law right of indemnity in favour of the landlord who has had to pay for damage to his tenant's crops against the neighbouring landowner who has reared the game which caused the damage.

(7) In the Game Act, 1831 (1 & 2 Will. 4, c. 32), "game" is defined by sect. 2 as including "hares, pheasants, partridges, grouse, heath or moor game, black-game and bustards." Hares are not included in the definition in this Act because the tenant has an inalienable right to kill ground game under the Ground Game Act, 1880.

11.[1] *Where—* Compensation for unreasonable disturbance.

(*a*) *the landlord of a holding, without good and sufficient cause, and for reasons inconsistent with good estate management, terminates the tenancy by notice to quit, or, having been requested in writing, at least one year before the expiration of a tenancy, to grant a renewal thereof, refuses to do so*[3] *or*

(*b*) *it has been proved that an increase of rent is demanded from the tenant of a holding, and that such increase was demanded by reason of an increase in the value of the holding due to improvements which have been executed by or at the cost of the tenant, and for which*

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he has not, either directly or indirectly, received an equivalent from the landlord, and such demand results in the tenant quitting the holding,[2]

the tenant upon quitting the holding shall, in addition to the compensation (if any) to which he may be entitled in respect of improvements and notwithstanding any agreement to the contrary, be entitled to compensation for the loss or expense directly attributable to his quitting the holding which the tenant may unavoidably incur upon or in connection with the sale or removal of his household goods, or his implements of husbandry, produce, or farm stock on or used in connection with the holding.[3]

Provided that no compensation under this section shall be payable—

(a) *unless the tenant has given to the landlord a reasonable opportunity of making a valuation of such goods, implements, produce, and stock as aforesaid ;*

(b) *unless the tenant has within two months after he has received notice to quit or a refusal to grant a renewal of the tenancy, as the case may be, given to the landlord notice in writing of his intention to claim compensation under this section ;* [4]

(c) *where the tenant with whom a contract of tenancy was made has died within three months before the date of the notice to quit, or in the case of a lease for years before the refusal to grant a renewal ;*

(d) *if the claim for compensation is not made within three months after the time at which the tenant quits the holding.*[5]

In the event of any difference arising as to any matter under this section the difference shall, in default of agreement, be settled by arbitration.

(1) This section which reproduced sect. 4 of the Agricultural Holdings Act, 1906, is repealed by the Agriculture Act, 1920, and its place is taken by sect. 10 of that Act, which must be referred to on the question of compensation for disturbance in the case of any

tenancy (except as hereinafter mentioned) terminating after the commencement of the Act (January 1st, 1921) by reason of a notice to quit given after May 20th, 1920 (see *post*, p. 180). Notwithstanding this repeal the section will still apply to land excluded by sub-s. 11 of sect. 10 of the Act of 1920 from the operation of that section, viz., "any land which forms part of any park, garden, or pleasure ground attached to and usually occupied with the mansion house, or any land adjoining the mansion house which is acquired for its protection or amenity." It is difficult to understand why "garden or pleasure ground" are mentioned as they would not come within the definition of "holding" in sect. 48. § 11.

(2) The right to compensation under this section arises in two cases—(a) when the landlord's notice to quit, or refusal to renew in the case of a lease for a definite term, is, "without good and sufficient cause, *and* for reasons inconsistent with good estate management"; (b) where there has been a demand for an increase of rent by reason of an increase in the value of the holding due to improvements executed by or at the cost of the tenant, and for which he has not directly or indirectly received an equivalent from the landlord, and the demand results in the tenant quitting the holding.

In case (a) it is to be noticed that the termination of the tenancy to give a right to compensation must be "without good and sufficient cause," and also "for reasons inconsistent," &c., the conjunction "and," not "or," being used. If it is established to the satisfaction of the arbitrator to whom the matter may be referred that the termination is not inconsistent with good estate management, which is, of course, a question of fact for his decision, but which, it is submitted, would include the more economical or profitable carrying on of the estate, as by sub-division into smaller holdings or the amalgamation of farms (when such a course may seem desirable), the getting rid of an unskilful or impecunious tenant who is deteriorating the land in his occupation, the development of building, the planting of woodland, and the taking of land into the landlord's hands for the purpose of improvement, then no claim for compensation can properly arise, although the termination of the tenancy may press hardly on the individual tenant who is dispossessed. A notice to quit given by a landlord with a view to a sale of the land for which purpose it may be desirable that a purchaser should have actual possession of the land would, it seems, not be given "without good and sufficient cause." See the County Court case of *Clewlow* v. *Briscoe* (129 Law Times J. 450; 45 L. J. 602). But the Agricultural Holdings Act, 1914 (3 & 4 Geo. 5, c. 7), now repealed by the Agriculture Act, 1920, expressly provided that a tenant whose tenancy was terminated in

§ 11. view of the sale or offering for sale of his holding should be entitled to receive compensation in terms of and subject to the provisions of this section.

The Scottish case of *Brown* v. *Mitchell* (1910, Sess. Cas. 369) contains some valuable remarks by the Lord President (Lord Dunedin) on the onus on the parties in a claim for compensation for disturbance, and on the different grounds for terminating a tenancy which an arbitrator should consider "good and sufficient cause." He says in the course of his judgment, "Expressed in common language, what this clause was meant to do was, not to give fixity of tenure (which would have been a perfectly different thing), but to give compensation for what may be characterised as capricious disturbance on the part of the landlord in capriciously putting an end to the lease. Now what reasons are capricious and what reasons are not capricious no man would try to define, because really no one could possibly *ab ante* figure all the possible reasons for which a landlord might wish to get rid of a tenant. But . . . there may be perfectly good reasons for getting rid of a tenant which are not, in the strict sense of the word, agricultural reasons, and a landlord who got rid of a tenant for one of these reasons, being a good one, is not liable under this clause." He then instances the tenant being a bad farmer or the rent being too low as perfectly good reasons. The observations of Lord Dunedin were approved in *Re Bonnett* v. *Fowler* (82 L. J. K. B. 713; (1913) 2 K. B. 537), where it was held that a notice to quit given by a landlord to the tenant of an agricultural holding in order that a higher rent may be obtained is "a good and sufficient cause" and is not a reason "inconsistent with good estate management" within the meaning of paragraph (a) of this section, so that in case of the termination of the tenancy for such a reason the tenant is not entitled to compensation under this section. Vaughan Williams, L.J., said that the onus was on the tenant to prove that the landlord was without good and sufficient cause and for reasons inconsistent with good estate management terminating the tenancy but that the onus was liable to shift. The Court doubted whether notwithstanding rule 3 (1) of Order XL. of the County Court (Agricultural Holdings) Rules, 1909, it had power to draw inferences of fact from the facts and documents stated in that case.

If the tenant holds under a lease he must make a written request for renewal at least one year before the expiration of the tenancy; if he fails to do so, he loses any right he might otherwise have had for compensation for disturbance under this section.

In case (b) a demand for an increase of rent, which results in the tenant quitting, whether by notice given by the landlord or by the tenant himself, will give rise to compensation only if the increase

is demanded by reason of an increased value of the holding resulting from improvements executed by or at the cost of the tenant, for which he has not directly or indirectly received an equivalent from the landlord. The improvements causing an increased value need not, it is submitted, be improvements which might give rise to compensation under the Act, but include any improvement raising the letting value of the holding, *e.g.* improvements mentioned in Schedule I., Part I., for which the tenant may not be entitled to compensation, not having the landlord's consent in writing before making the same. In *Re Bonnett* v. *Fowler*, *supra*, Farwell, L.J., said that under clause (b) the burden of proof lies upon the tenant, where an increase of rent has been demanded, to show that such increase was demanded by reason of an increase in the value of the holding due to improvements which he had executed. §§ 11, 12.

(3) The compensation is strictly limited to loss or expense *directly* attributable to quitting the holding, and *unavoidably* incurred in connection with the sale or removal of household goods, implements, produce or work. It will include the ordinary expenses of removal to another farm, or compensation for realisation of stock by forced sale by auction when removal is not reasonably possible—see *Re Evans and Glamorgan County Council* (10 L. G. R. 805; 76 J. P. 468). Limitation of claims.

In *Barbour* v. *M'Donall* ((1914) S. C. 844) it was observed that where there was a sale the compensation would include not merely the expense of the sale but also the loss through deterioration of the stock.

(4) Notice of intention to claim compensation for disturbance under this section must be given within two months after the tenant has received notice to quit or the refusal to renew the tenancy. As to the date of refusal to grant a renewal see *Cowdray* (*Viscountess*) v. *Ferries* ((1918) S. C. 210). The notice of intention by itself is not sufficient, but a claim must also be made under clause (*d*) within three months after quitting the holding. Notice required.

(5) The actual claim for compensation, as distinguished from the notice of intention to claim under clause (*b*), must be given within three months after the time at which the tenant quits the holding. It may be wholly verbal: *Sylvester* v. *Brown* (85 L. J. K. B. 1173). Notice of claim.

Compensation in case of Tenancy under Mortgagor.

12.[1] Where a person occupies a holding under a contract of tenancy with a mortgagor, which is not binding on the mortgagee,[2] then— Compensation to tenants when mortgagee takes possession.

(1.) The occupier shall, as against the mortgagee who takes possession, be entitled to any com-

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pensation which is, or would but for the mortgagee taking possession be, due to the occupier from the mortgagor as respects crops, improvements, tillages, or other matters connected with the holding, whether under this Act or custom or an agreement authorised by this Act.[3]

(2.) If the contract of tenancy is for a tenancy from year to year or for a term of years, not exceeding twenty-one, at a rackrent, the mortgagee shall, before he deprives the occupier of possession otherwise than in accordance with the contract of tenancy, give to the occupier six months' notice in writing of his intention so to do, and, if he so deprives him, compensation shall be due to the occupier for his crops, and for any expenditure upon the land which he has made in the expectation of remaining in the holding for the full term of his contract of tenancy, in so far as any improvement resulting therefrom is not exhausted at the time of his being so deprived.[4]

(3.) Any sum ascertained to be due to the occupier for compensation, or for any costs connected therewith, may be set off against any rent or other sum due from him in respect of the holding, but unless so set off shall, as against the mortgagee, be charged and recovered in accordance with the provisions of this Act relating to the recovery of compensation due from a landlord who is a trustee.[5]

(1) This section took the place of sect. 2 of the Tenants Compensation Act, 1890, and is to the same effect, although the matter is rearranged.

Effect of leases by mortgagors.

(2) Previously to the Conveyancing Act, 1881, a lease made by a mortgagor after the mortgage was not binding on the mortgagee, and he could on taking possession at once evict the tenant as a trespasser: *Keech* v. *Hall* (1 Dougl. 21). A mere notice to the tenant from the mortgagee to pay rent to him was insufficient to create the relation of landlord and tenant between the mortgagee

and tenant unless assented to by the tenant: *Rogers* v. *Humphreys* (5 L. J. K. B. 65; 4 A. & E. 299); and such relation was not created even if the tenant continued in possession after the receipt of such a notice: *Towerson* v, *Jackson* (61 L. J. Q. B. 36; (1891) 2 Q. B. 484). If, however, the tenant complied with the notice he became tenant from year to year of the mortgagee: *Corbett* v. *Plowden* (54 L. J. Ch. 109; 25 Ch. D. 678), and payment of rent to the mortgagee under compulsion operated as a discharge of rent to the mortgagor: *Underhay* v. *Read* (57 L. J. Q. B. 129; 20 Q. B. D. 209). A mortgagor who has mortgaged land after a lease made by him cannot recover possession of land on a forfeiture for breach of covenants in the lease, as he is no longer legally entitled to the reversion: *Matthews* v. *Usher* (69 L. J. Q. B. 856; (1900) 2 Q. B. 535); *Molyneux* v. *Richard* (75 L. J. Ch. 39; (1906) 1 Ch. 34). But as to leases made after the commencement of the Conveyancing Act, 1881, see sect. 10 of that Act, which provides that the person for the time being entitled to the income of the land leased may recover rent reserved by a lease, and take advantage of the covenants and provisions therein contained.

The law as above stated is applicable at present (subject to the tenant's rights under this Act) to all cases of mortgages where the operation of sect. 18 of the Conveyancing Act, 1881, is expressly excluded.

Sect. 18 of the Conveyancing and Law of Property Act, 1881, provides:— Conveyancing Act, 1881, s. 18.

"18.—(1) A mortgagor of land while in possession shall, as against every incumbrancer, have, by virtue of this Act, power to make from time to time any such lease of the mortgaged land, or any part thereof, as is in this section described and authorized.

"(2) A mortgagee of land while in possession shall, as against all prior incumbrancers, if any, and as against the mortgagor, have, by virtue of this Act, power to make from time to time any such lease as aforesaid.

"(3) The leases which this section authorizes are—

"(i) An agricultural or occupation lease for any term not exceeding twenty-one years; and

"(ii) A building lease for any term not exceeding ninety-nine years.

"(4) Every person making a lease under this section may execute and do all assurances and things necessary or proper in that behalf.

"(5) Every such lease shall be made to take effect in possession not later than twelve months after its date.

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"(6) Every such lease shall reserve the best rent that can reasonably be obtained, regard being had to the circumstances of the case, but without any fine being taken.

"(7) Every such lease shall contain a covenant by the lessee for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days.

"(8) A counterpart of every such lease shall be executed by the lessee and delivered to the lessor, of which execution and delivery the execution of the lease by the lessor shall, in favour of the lessee and all persons deriving title under him, be sufficient evidence.

* * * * *

"(13) This section applies only if and as far as a contrary intention is not expressed by the mortgagor and mortgagee in the mortgage deed, or otherwise in writing, and shall have effect subject to the terms of the mortgage deed or of any such writing and to the provisions therein contained.

* * * * *

"(16) This section applies only in case of a mortgage made after the commencement of this Act; but the provisions thereof, or any of them, may, by agreement in writing made after the commencement of this Act, between mortgagor and mortgagee, be applied to a mortgage made before the commencement of this Act, so, nevertheless, that any such agreement shall not prejudicially affect any right or interest of any mortgagee not joining in or adopting the agreement.

"(17) The provisions of this section referring to a lease shall be construed to extend and apply, as far as circumstances admit, to any letting, and to an agreement, whether in writing or not, for leasing or letting."

The result of the above provisions is that either mortgagor or mortgagee under a mortgage executed after December 31st, 1881, when in possession may, unless the operation of the Act is expressly excluded, grant a lease or enter into an agreement of tenancy of agricultural land for a term not exceeding twenty-one years, and such letting will be binding on the other of them. While in possession the mortgagor or mortgagee will be entitled to receive the rent and will be liable to the tenant for improvements for which compensation is payable under the Act. The mortgagee, on going into possession, is entitled to enforce the covenants and conditions in the lease in the same way as if he had been a party to it: *Municipal Permanent Investment Building Society* v. *Smith* (58 L. J. Q. B.

61; 22 Q. B. D. 70). In *Robbins* v. *Whyte* (75 L. J. K. B. 38; (1906) 1 K. B. 25) it was held that a mortgagor who had granted a lease under the power given to him by sect. 18 could not accept a surrender of the lease without the concurrence of the mortgagee. But section 3 of the Conveyancing Act, 1911 (1 & 2 Geo. 5, c. 37), empowers either a mortgagor or a mortgagee in possession to accept surrender of leases but for the purpose only of enabling a lease authorized under section 18 of the Act of 1881 or under any agreement pursuant to section 18 to be granted. § 12.

A covenant by a tenant to consume hay and fodder on the premises and to spread on the land all manure and compost produced on the farm touches and concerns the land, and the benefit of it, therefore, runs with the reversion. Such a covenant may be enforced by the purchaser of the land from a mortgagee under a mortgage made before the commencement of the Conveyancing Act, 1881, who has executed an agreement for a tenancy of the farm while not in possession: *Chapman* v. *Smith* (76 L. J. Ch. 394; (1907) 2 Ch. 97).

([3]) In cases where the Conveyancing Act does not apply, or is excluded, and the tenancy is therefore not binding on the mortgagee, this sub-section provides that the tenant shall not lose his rights if the mortgagee refuses to accept him as tenant and takes possession. It not only gives him the right to compensation for improvements under the Act, but also the right to claim for crops, tillages, and acts of husbandry, which he might have claimed against his landlord as an outgoing tenant.

([4]) This sub-section gives additional rights to tenants holding under a tenancy from year to year or for a term not exceeding twenty-one years, not binding on the mortgagee, at a rack-rent, *i.e.*, a rent representing the full annual value of the land, no premium having been given—see *Re Sawyer* and *Whithall* (88 L. J. Ch. 474; (1919) 2 Ch. 333). In such cases (which would include most agricultural tenancies) the tenant is entitled as against any mortgagee to— Right of tenant to notice before eviction.

(i) Six months' notice in writing to quit. Apparently the notice need not be given to determine at any of the recognized quarter days, but may expire at any time. But *quære* if section 28, sub-sect. 1 of the Agriculture Act, 1920 (*post*, p. 214), has not made a twelve months' notice to quit ending with a year of the tenancy necessary for the future.

(ii) In addition to compensation in respect of the matters mentioned in sub-sect. 1, the tenant may claim compensation for his crops which he leaves, and for any expenditure made by him in the expectation of holding on his tenancy until it

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expires in the natural course of events, so far as the results of such expenditure have not been exhausted.

Recovery of compensation.

(5) The sum due to the occupier for "compensation," which expression covers the various matters mentioned in the former part of the section, viz., crops, improvements, tillages, or other matters connected with the land, may be set off against rent or other sums due from the occupier, but is not recoverable against a mortgagee landlord personally. In default of payment the occupier will be entitled to a charge on the holding under sect. 35, to be obtained on application to the Ministry of Agriculture and Fisheries (see *post*, p. 83).

Procedure in Arbitrations.

Procedure in arbitrations.

13.—(1.)[1] All questions which under this Act or under the contract of tenancy are referred to arbitration shall, whether the matter to which the arbitration relates arose before or after the passing of this Act, be determined, notwithstanding any agreement under the contract of tenancy or otherwise providing for a different method of arbitration, by a single arbitrator in accordance with the provisions set out in the Second Schedule to this Act.[2]

(2.) Where any claim which is referred to arbitration relates to an improvement executed or matter arising after the determination of the tenancy, but while the tenant lawfully remains in occupation of part of the holding, the arbitrator may, if he thinks fit, make a separate award in respect of that claim.[3]

(3.) If in any arbitration under this Act the arbitrator states a case for the opinion of the County Court on any question of law, the opinion of the Court on any question so stated shall be final, unless within the time and in accordance with the conditions prescribed by rules of the Supreme Court either party appeals to the Court of Appeal, from whose decision no appeal shall lie.[4]

52 & 53 Vict. c. 49.

(4.) The Arbitration Act, 1889, shall not apply to any arbitration under this Act.

(5.) *Any person who wilfully and corruptly gives false evidence before an arbitrator in any arbitration under this*

Act shall be guilty of perjury, and may be dealt with, prosecuted, and punished accordingly.[5] § 13.

(1) Sub-sect. 1 repeats sect. 1, sub-sect. 2, of the Agricultural Holdings Act, 1906.

(2) This provision, referring all questions which, under the Act or the contract of tenancy, have to go to arbitration to the decision of a single arbitrator, is intended to simplify procedure and thus avoid expense. Having regard to the words "notwithstanding any agreement under the contract of tenancy or otherwise providing for a different method of arbitration," it is unnecessary and useless to include in any lease or tenancy agreement any special provision as to the mode of arbitration in case of any dispute or claim for compensation. It is sufficient to insert a provision that the dispute or claim shall be determined by arbitration, and thereupon this sub-section and the provisions in the 2nd Schedule to the Act will apply. And even such a provision appears now to be superfluous, for section 18 of the Agriculture Act, 1920 (*post*, p. 206), is very comprehensive in referring all questions and differences to arbitration. Such a case as *Re Cundall and Vavasour* (95 L. T. 483), where there was an express agreement in the tenancy agreement as to the adjustment of rights on the determination of a tenancy, which, it was held, ousted the jurisdiction of the Board of Agriculture to appoint an umpire, and where the Court issued a writ of prohibition to restrain a County Court judge from enforcing the award of the umpire so appointed under sect. 24 of the Act of 1883 because the arbitration was not one to which the Agricultural Holdings Acts applied, cannot now arise. See Form 35 for referring matters in dispute to arbitration.

Mere valuation has been distinguished from arbitration. In the former a man uses his eyes, knowledge and skill only; in the latter evidence is heard, and the matter is determined judicially as in a trial. See per Lord Esher, M. R., in *Re Dawdy* (54 L. J. Q. B. 574; 15 Q. B. D. 426); and see also *Re Carus Wilson and Greene* (56 L. J. Q. B. 530; 18 Q. B. D. 7); and *Re Hammond and Waterton* (62 L. T. 808). In the Scottish case of *Stewart* v. *Williamson* (80 L. J. P. C. 29; (1910) A. C. 455) it was held that a valuation of stock which is to be taken over by the owner or the new tenant from an outgoing tenant is an "arbitration" within the meaning of the corresponding section of the Agricultural Holdings (Scotland) Act, 1908 (8 Edw. 7, c. 64), and must be made in the methods prescribed thereby, notwithstanding any agreement in the lease prescribing a different method of ascertaining the amount payable. Having regard to this decision, unless there is a difference in Scottish and English law in the meaning of the word "arbitration" (which

§§ 13, 14.

the Lord Chancellor (Lord Loreburn) seems in his judgment to suggest there may be), it would seem that this section covers all provisions in a lease or tenancy agreement for valuation between a landlord and tenant.

Practically in most cases where a change of tenancy takes place, and claims for tillages, acts of husbandry and compensation have to be settled as between the landlord or incoming tenant and the outgoing tenant, the mode of procedure under this Act does not differ greatly from what it was before the Act, when it was usual to appoint an arbitrator on each side who appointed an umpire to decide in case they differed. Each party usually finds it convenient to appoint a valuer to act on his behalf, and if on going into the various claims the two valuers, being properly authorised by their principals, mutually agree as to figures, the principals are bound, and no further arbitration is necessary. See sect. 48, sub-sect. 1, which defines "agreement" as including an agreement arrived at by means of valuation. See Forms 36 and 37 for authority to valuers to act, and in default of agreement to appoint an arbitrator.

If the valuers cannot agree in their valuation, and the matter is referred to arbitration, the valuers will be competent witnesses on the hearing by the arbitrator.

([3]) This sub-section was repeated from sect. 2, sub-sect. 4, of the Agricultural Holdings Act, 1900.

([4]) For provisions as to appeals from the County Court to the Court of Appeal see Rules of the Supreme Court, Order LVIII., Rule 20. When an application is made to a County Court judge to set aside an award under this Act on the ground of the arbitrator's misconduct, an appeal from the decision of the County Court Judge lies to a Divisional Court under sect. 120 of the County Courts Act, 1888, and not to the Court of Appeal: *Williams* v. *Wallis and Cox* (83 L. J. K. B. 1296; (1914) 2 K. B. 478).

([5]) This sub-section was repealed by the Perjury Act, 1911 (1 & 2 Geo. 5, c. 6), which provides in section 2 for the offence of false statements otherwise than in a judicial proceeding.

Recovery of compensation and other sums due.

14. Where any sum agreed[1] or awarded under this Act to be paid for compensation costs or otherwise by a landlord or tenant of a holding is not paid within fourteen days after the time when the payment becomes due, it shall, subject as in this Act provided,[2] be recoverable upon order made by the County Court as money ordered by a County Court under its ordinary jurisdiction to be paid is recoverable.[3]

(1) An agreement may be made between the landlord and tenant as to the amount of compensation payable by the former to the latter (see sect. 6, sub-sect. 1), and if so made may be enforced under this section. Such agreement should be in writing. §§ 14, 15. Agreement as to compensation.

(2) If the landlord is a mortgagee or trustee, no order for recovery against him personally can be made under this section. See sect. 12, sub-sect. 3, and sect. 35.

(3) Money ordered to be paid by a County Court under its ordinary jurisdiction is recoverable by execution against the goods of the debtor, by the attachment of debts in the hands of third parties called garnishees, or by the imprisonment of the debtor under the Debtors Act, 1869 (32 & 33 Vict. c. 62), for any term not exceeding six weeks for default in payment of any debt or instalment of any debt in pursuance of any order or judgment of the Court. See County Court Rules, Ord. XL. r. 7, and Form 421, *post*, in Appendix II. It is submitted that an application made to the County Court to enforce an award under this section is not in the nature of an action, and that the party against whom the application is made cannot bring in anything in the nature of a counter-claim or set-off in answer to the application. Upon proof of the award, and no question being raised as to its validity, it will be the duty of the County Court judge to make an order for the recovery of the sum awarded. How money ordered to be paid by a County Court is recoverable.

Charge on Holding for Compensation.

15.—(1.) A landlord,[1] on paying to the tenant the amount due to him under this Act, or under custom or agreement, or otherwise in respect of compensation for an improvement comprised in the First Schedule hereto, or on expending after notice given in accordance with this Act such amount as may be necessary to execute an improvement comprised in Part II. of the First Schedule hereto, shall be entitled to obtain from the Board an order in favour of himself, his executors, administrators, and assigns, charging the holding, or any part thereof, with repayment of the amount paid or expended, with such interest, and by such instalments, and with such directions for giving effect to the charge, as the Board think fit.[2] Power for landlord on paying compensation to obtain charge.

(2.) Where the landlord obtaining the charge is not absolute owner of the holding for his own benefit, no instalment or interest shall be made payable after the time

§ 15. when the improvement in respect whereof compensation is paid will, in the opinion of the Board, have become exhausted.

(3.) Where the estate or interest of a landlord is determinable or liable to forfeiture by reason of his creating or suffering any charge thereon, that estate or interest shall not be determined or forfeited by reason of his obtaining a charge under this Act, anything in any deed, will, or other instrument to the contrary thereof notwithstanding.

"Landlord."

(1) The word "landlord" in this section includes a landlord's executors, so that the executors of a landlord tenant for life, who have paid compensation to an outgoing tenant whose tenancy determined before the landlord's death, are entitled to obtain a charge on the holding under this section for the amount paid by them: *Gough* v. *Gough* (60 L. J. Q. B. 726; (1891) 2 Q. B. 664).

(2) The provisions contained in this section may be useful to land-owners who are limited owners and desire to charge money expended in paying compensation for the benefit of their younger children or others. They also facilitate the borrowing from a land improvement company (or others, see sect. 17) of money by landlords to pay compensation.

Application for charge.

There is no official form of application for a charge or of a charge under this section. Application to the Ministry of Agriculture and Fisheries for a charge should be supported by a statutory declaration proving payment of the compensation and that no part of it has been repaid to the applicant. If the award does not give the particulars mentioned in sect. 18, a certificate will be required from the arbitrator or some other proper evidence of those particulars. The Act does not expressly require notice of the application for a charge to be served on remaindermen, or other persons interested in a settled estate, but the Ministry require notice to be given personally or by registered letter to the person entitled to the next estate in remainder.

Any charge obtained under this section must be registered as a land charge under the Lands Charges Registration and Searches Act, 1888 (51 & 52 Vict. c. 51). See sect. 19 of this Act. If not so registered it will be void as against a purchaser for value of the land charged therewith. The register is kept at the Land Registry Office. Any person may search the register on payment of the prescribed fee. Forms for the application to register a land charge and for the declaration to be made in support of an application to register may be obtained at the Land Registry Office.

This section applies to ecclesiastical and charity lands, as well as

to land belonging to private proprietors. In the case of land belonging to a benefice, the Commissioners of Queen Anne's Bounty may, as well as the incumbent, obtain a charge for money paid by them in compensation (see sect. 40).

Incidence of charge.

16. The sum charged by the order of the Board under this Act shall be a charge on the holding, or the part thereof charged, for the landlord's interest therein and for all interests therein subsequent to that of the landlord; but so that, in any case where the landlord's interest is an interest in a leasehold, the charge shall not extend beyond the interest of the landlord, his executors, administrators, and assigns.[1]

(1) The latter words of this section prevent a landlord who himself is a leaseholder from charging more than his own interest in the property leased.

Advance made by a company.

17. Any company now or hereafter incorporated by Parliament, and having power to advance money for the improvement of land, may take an assignment of any charge made by the Board under this Act, or made under any enactment hereby repealed, upon such terms and conditions as may be agreed upon between the company and the person entitled to the charge, and may assign any charge so acquired by them.[1]

Improvement of Land Acts.

(1) Charges under the Improvement of Land Act, 1864, and other special Improvement Acts, are by way of rent-charge, by which the money advanced, together with interest, is repaid over a term of years.

The Improvement of Land Act, 1899 (62 & 63 Vict. c. 46), provides that where under the Improvement of Land Act, 1864, or any special Improvement Act, a charge is authorised in respect of an improvement of land, the period for repayment of the charge shall be such period, not exceeding forty years, as the Board of Agriculture, having regard to the character and probable duration of the improvement, determine.

Certificate as to charges.

18. Where a charge may be made under this Act for compensation due under an award, the person making the award shall, at the request and cost of the person entitled

§§ 18–20. to obtain the charge, certify the amount to be charged and the term for which the charge may properly be made, having regard to the time at which each improvement in respect of which compensation is awarded is to be deemed to be exhausted.[1]

Time of exhaustion of improvement.

(1) Under sect. 15, sub-sect. 2, where the landlord is not absolute owner of the holding for his own benefit, no instalment of, or interest on, any charge is to be made payable after the time when the improvement in respect of which the charge is made is to be deemed to be exhausted. That time is by this section to be fixed by the person making the award.

Registration of charges. 51 & 52 Vict. c. 51.

19. A charge made by the Board under this Act shall be a land charge within the meaning of the Land Charges Registration and Searches Act, 1888, as amended by any subsequent enactment, and may be registered accordingly.[1]

(1) As to the registration of land charges, see note (2) to sect. 15.

Capital Money applicable for Compensation.

Capital money applicable for compensation.

20. Capital money arising under the Settled Land Acts, 1882 to 1890,[1] may be applied—

(1) In payment as for an improvement authorised by those Acts of any money expended and costs incurred by a landlord under or in pursuance of this Act or any enactment hereby repealed, or under custom or agreement or otherwise, in or about the execution of any improvement comprised in Part I. or Part II. of the First Schedule hereto ;[2] and

(2) In discharge of any charge in respect of any such improvement created on a holding under this Act or any enactment hereby repealed, as if the charge were an incumbrance authorised by those Acts to be discharged out of that capital money.

Modes in which

(1) The following are some of the principal modes by which capital money arises under the Settled Land Act, 1882—

1. By a sale or enfranchisement by the tenant for life or other limited owner (sect. 3).
2. By a fine on a grant or confirmation of a lease (sect. 7, and Settled Land Act, 1884, s. 4).
3. By a mining lease (three-fourths of the rent will be treated as capital money where the tenant for life is impeachable for waste, otherwise one-fourth) (sect. 11).
4. By the sale of timber cut by a tenant for life impeachable for waste (sect. 35).

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capital money may arise under the Settled Land Act, 1882.

Money in Court, or in the hands of trustees, liable to be laid out in land to be settled, as the settled land, is also capital money under the Act (sects. 32, 33).

(2) This sub-section in effect adds to the improvements authorised by the Settled Land Acts, 1882 to 1890, those mentioned in Parts I. and II. of the 1st Schedule to this Act.

But capital money arising under the Settled Land Act, 1882, may not be expended in paying compensation to an agricultural tenant from year to year under this Act on terminating his tenancy, even though it be necessary to terminate it in order to effect an improvement authorised by the Settled Land Acts: *Re De la Warr's (Earl) Cooden Beach Estate* (82 L. J. Ch. 174; (1913) 1 Ch. 142).

Fixtures and Buildings.

Tenant's property in fixtures and buildings.

21.—(1.) Any engine, machinery, fencing, or other fixture[1] affixed to a holding by a tenant, and any building erected by him thereon for which he is not under this Act[2] or otherwise entitled to compensation, and which is not so affixed or erected in pursuance of some obligation in that behalf or instead of some fixture or building belonging to the landlord, shall be the property of and be removable by the tenant before or within a reasonable time[3] after the determination of the tenancy:

Provided that—

(i) Before the removal of any fixture or building the tenant shall pay all rent owing by him, and shall perform or satisfy all other his obligations to the landlord in respect of the holding:

(ii) In the removal of any fixture or building the tenant shall not do any avoidable damage to any other building or other part of the holding:

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(iii) Immediately after the removal of any fixture or building the tenant shall make good all damage occasioned to any other building or other part of the holding by the removal :

(iv) The tenant shall not remove any fixture or building without giving one month's previous notice in writing to the landlord of his intention to remove it :[4]

(v) At any time before the expiration of the notice of removal the landlord, by notice in writing given by him to the tenant, may elect to purchase any fixture or building comprised in the notice of removal, and any fixture or building thus elected to be purchased shall be left by the tenant, and shall become the property of the landlord, who shall pay to the tenant the fair value thereof to an incoming tenant of the holding ; and any difference as to the value shall be settled by arbitration.

(2.) The provisions of this section shall apply to a fixture or building acquired since the thirty-first day of December nineteen hundred[5] by a tenant in like manner as they apply to a fixture or building affixed or erected by a tenant, but shall not apply to any fixture or building affixed or erected before the first day of January eighteen hundred and eighty-four.[5]

What are "fixtures."

Tenant's fixtures.

Trade fixtures.

(1) Fixtures include anything annexed to the freehold, and the law formerly was that the tenant could not remove anything fixed to the freehold without committing waste. The tenant might, however, remove fixtures put up for the ornament of the premises or convenience of his occupation. Such fixtures are called "tenant's fixtures," and include such articles as stoves, grates, hangings, cupboards, &c. They must, however, be but slightly fixed, and capable of being moved entire. Fixtures erected for the purpose of trade have also been excepted from the general rule, but the exception was not extended to fixtures put up for agricultural purposes : *Elwes* v. *Maw* (3 East, 28 ; 2 Sm. L. C., 12th edn. 188). In that case the fixtures were a beast-house, a carpenter's shop, a fuel house, a cart-house, a pump-house and fold-yard. In *Mears*

§ 21.

v. *Callender* (70 L. J. Ch. 621; (1901) 2 Ch. 388) it was held that glass-houses erected for the purpose of his trade by a tenant carrying on the business of a market gardener were trade fixtures which might be removed by the tenant during his tenancy, apart from the provisions of this section which were excluded by the terms of the tenancy.

This section enables an agricultural tenant to remove any engine, machinery, fencing, or other fixture, or any building created by him to which he is not entitled to compensation under the Act. The fixture to be removable must be "affixed to the holding," *i.e.*, some "parcel of land held by the tenant" (sect. 61), and it may be doubted whether it would include an addition to the dwelling-house not coming within the ordinary description of "tenant's fixtures."

It is open to the parties to an agricultural contract of tenancy to contract themselves out of the operation of this section: *Premier Dairies, Ltd.* v. *Garlick* (89 L. J. Ch. 332; (1920) 2 Ch. 17). In that case a covenant by a lessee to leave, surrender and yield up to the lessor at the end or sooner determination of the term "all new and other buildings and erections" was held by Peterson, J., to exclude the provisions of the section and the lessee was consequently not entitled to remove buildings and fixtures erected by him during the tenancy.

(2) Certain fixtures in the nature of buildings are comprised in the first part of the 1st Schedule.

Within what time a fixture may be removed.

(3) It is to be noticed that a reasonable time is now given for the removal of fixtures. In cases to which the Act does not apply and in the absence of express contract it is doubtful whether a tenant can remove fixtures claimed by him after the expiration of the tenancy: *Pugh* v. *Arton* (38 L. J. Ch. 619; L. R. 8 Eq. 626); *Ex parte Stephens, In re Lavies* (47 L. J. Bkcy. 22; 7 Ch. D. 127). In *In re Glasdir Copper Mines* (73 L. J. Ch. 461; (1904) 1 Ch. 819) a mortgagee or purchaser from a tenant of trade fixtures was held to have a right to remove them within a reasonable time after the surrender of the lease. But in *Barff* v. *Probyn* (64 L. J. Q. B. 557), a tenant removing fixtures after the expiration of his lease was held to be a trespasser and liable for damages for wrongful removal and conversion. The fixture by this section is to become *the property of the tenant.* It therefore seems that the landlord could not prevent the removal by the tenant of his own property, even after the expiration of a reasonable time. See *Re Walker, Ex parte Gould* (13 Q. B. D. 454). Refusal by the landlord to permit severance and removal of fixtures would give the tenant a right of action for their value: *Thomas* v. *Jennings* (66 L. J. Q. B. 5). A sur-

§§ 21, 22. render of a lease *prima facie* includes all the fixtures on the property: *Leschallas* v. *Woolf* (77 L. J. Ch. 345; (1908) 1 Ch. 641).

For the general law as to fixtures, see Dixon, p. 525.

See Form 11.

(4) In *Re Harvey and Mann's Arbitration* (89 L. J. K. B. 687; 123 L. T. 242), it was held that a tenant who omits under this subsection to give notice to his landlord of his intention to remove a fixture or building, whereby the landlord is prevented from exercising the option given to him by the Act to purchase the same, cannot afterwards claim compensation for expenses or loss suffered through the removal of the fixture or building under the provisions in the Act for compensation for disturbance.

(5) The Agricultural Holdings Act, 1900, came into force on January 1st, 1901, and the Agricultural Holdings (England) Act, 1883, came into force on January 1st, 1884.

Miscellaneous Rights of Landlord and Tenant.

Time of notice to quit.

22. *Where a half-year's notice, expiring with a year of tenancy, is by law necessary*[1] *and sufficient for the determination of a tenancy of a holding from year to year, a year's notice so expiring shall by virtue of this Act be necessary and sufficient for such determination, unless the landlord and the tenant agree in writing that this section shall not apply,*[2] *in which case a half-year's notice shall be sufficient; but nothing in this section shall extend to a case where a receiving order in bankruptcy is made against the tenant.*

How the section may be excluded.

(1) This section is now repealed by the Agriculture Act, 1920, and section 28 of that Act, which makes at least a twelve months' to quit necessary in all cases notwithstanding any agreement to the contrary except where a receiving order in bankruptcy is made against the tenant, is substituted therefore (see *post*, p. 214). In the case of an ordinary tenancy from year to year, a half-year's notice to quit, expiring at the end of the first or any subsequent year of the term, is by common law necessary and sufficient, unless some other period is agreed upon or implied by local custom: *Right* v. *Darby* (1 T. R. 159). "By law necessary" was held to mean in this section otherwise than by agreement: see *Barlow* v. *Teal* (*infra*). To exclude the operation of the section, an express agreement in writing was necessary in the case of holdings to which the section related.

(2) In *Wilkinson* v. *Calvert* (47 L. J. C. P. 679; 3 C. P. D. 360), it was held, in the case of a tenancy under a contract subject to a similar section in the Agricultural Holdings Act, 1875, that an agreement in writing, made previously to the commencement of the Act, to accept six months' notice, would exclude the operation of the Act, six months' differing from half a year's notice. §§ 22, 23.

In *Barlow* v. *Teal* (54 L. J. Q. B. 564; 15 Q. B. D. 501) there was a tenancy under a written agreement "until six months' notice shall have been given . . . in the usual way to determine the tenancy." The Court held that sect. 33 of the Act of 1883 did not apply so as to render a year's notice necessary to determine it. Brett, M.R., said: "Wherever there is an express contract as to the time of quitting, or as to the mode of giving notice to quit, the enactment does not apply." Baggallay, L.J., added: "The statute was intended to apply, not where a half-year's notice to quit is provided by the contract between the parties, but where it is created by implication of law."

Resumption of possession for cottages, &c.

23. Where a notice to quit is given by the landlord of a holding to a tenant from year to year with a view to the use of land for any of the following purposes:—

(i) The erection of farm labourers' cottages or other houses with or without gardens;

(ii) The provision of gardens for farm labourers' cottages or other houses;

(iii) The provision of allotments *for labourers;*

(iv) The provision of small holdings as defined by the Small Holdings and Allotments Act, 1907;[2]

(v) The planting of trees;

(vi) The opening or working of any coal, ironstone, limestone, brick earth, or other mineral, or of a stone quarry, clay, sand, or gravel pit, or the construction of any works or buildings to be used in connexion therewith;

(vii) The making of a watercourse or reservoir;

(viii) The making of any road, railway, tramroad, siding, canal, or basin, or any wharf, pier, or other work connected therewith;

and the notice states that it is given with a view to any such use—

§ 23. (*a*) it shall, by virtue of this Act, be no objection to the notice that it relates to part only of the holding ;[3] and

(*b*) the provisions of this Act respecting compensation shall apply as if the part to which the notice relates were a separate holding ; and

(*c*) the tenant shall be entitled to a reduction of rent proportionate to the part to which the notice relates, and in respect of any depreciation of the value to him of the residue of the holding caused by the severance, or by the use to be made of the part severed, and the amount of that reduction shall be settled as in case of compensation under this Act :[4]

Provided that the tenant may at any time within twenty-eight days after service of the notice to quit serve on the landlord a notice in writing to the effect that he accepts it as a notice to quit the entire holding, to take effect at the expiration of the then current year of tenancy ; and the notice to quit shall have effect accordingly.

(1) The words in italics are repealed by the Agriculture Act, 1920.

(2) A small holding is defined by the Small Holdings and Allotments Act, 1908 (8 Edw. 7, c. 36), s. 61, as meaning "an agricultural holding which exceeds one acre and either does not exceed fifty acres, or, if exceeding fifty acres, is at the date of sale or letting of an annual value for the purposes of income-tax not exceeding 50*l*."

(3) Except as authorised by this Act or by special agreement, a notice to quit extending to part only of the demised premises is bad : *Doe* d. *Rodd* v. *Archer* (14 East, 244) : *Re Bebington's Tenancy* ([1921] 1 Ch. 559. See Dixon, p. 504.)

See Forms 12 and 13.

(4) Paragraphs (b) and (c) of this section (but not including the proviso thereto) which *prima facie* only apply to a notice to quit under the statutory power given by the section, are by section 22 of the Agriculture Act, 1920, applied to cases where a landlord gives notice in pursuance of a provision in that behalf in the contract of tenancy to recover possession of some part of his holding (see *post*, p. 210). "The provisions of this Act respecting compensations" would seem to include compensation of any kind under this Act or the Act of 1920 whether for improvements executed by the

tenant or for disturbance, it being provided by section 36, sub-s. 2 of the Act of 1920 that Part II. of that Act shall be construed as one with this Act. §§ 23–25.

24. The landlord of a holding or any person authorised by him may at all reasonable times enter on the holding for the purpose of viewing the state of the holding.[1] Power of entry by landlord.

(1) Apart from this section, which replaces sect. 5 of the Agricultural Holdings Act, 1900, unless an express right of entry is reserved, a landlord has no right to enter his tenant's premises to repair, or for any other purpose. If he does so, he is a trespasser.

25. Notwithstanding any provision in a contract of tenancy making the tenant of a holding liable to pay a higher rent or other liquidated damages in the event of any breach or nonfulfilment of a term or condition in the contract, a landlord shall not be entitled to recover, by distress or otherwise, any sum in consequence of any such breach or non-fulfilment in excess of the damage actually suffered by him in consequence of the breach or non-fulfilment : Penal rents and liquidated damages.

Provided that this section shall not apply to any term or condition in a contract against the breaking up of permanent pasture, the grubbing of underwoods, or the felling, cutting, lopping, or injuring of trees, or regulating the burning of heather.[1]

(1) According to the long-established doctrine of equity wherever a penalty is inserted merely to secure the performance of some act, or the enjoyment of some right or benefit, the performance of such act or the enjoyment of such right or benefit is considered the substantial and principal intent of the instrument, and the penalty only accessory. In such cases, therefore, the Court relieves against the penalty and decrees compensation in lieu thereof proportionate to the damage actually sustained : *Sloman* v. *Walter* (1 Bro. C. C. 418 ; 2 Wh. & Tu. L. C. 8th edn. 264). Where, however, a sum is agreed upon by the parties as liquidated damages or the price to be paid for doing or refraining from doing a certain act, the Court will not interfere. In *Rolfe* v. *Peterson* (2 Bro. P. C. 436), the lessee covenanted not to plough up any of the ancient meadow or pasture ground, and if he did to pay an additional rent of 5*l.* per acre. Penalties to secure performance of contracts.

§§ 25, 26. Lord Camden looked upon the additional rent as a penalty, and decreed that the tenant should be relieved, and directed an issue to ascertain the actual damage suffered, but the House of Lords overruled the decree. In *Jones* v. *Green* (3 Y. & J. 298), Alexander, C.B., says: "Since the case of *Rolfe* v. *Peterson* it has always been understood in all cases between the landlord and tenant, whether the term used has been 'penalty' or 'liquidated damages,' or 'additional rent,' or any other similar expression, that it should not be considered as a penalty in order to protect the defendant from answering, but as stipulated damages or additional rent." See Dixon, p. 594. But in *Willson* v. *Love* (65 L. J. Q. B. 474; (1896) 1 Q. B. 626), where a lease contained a covenant not to sell hay or straw off the premises during the last twelve months of the term, and provided that an additional rent of 3*l.* per ton should be payable by way of penalty for every ton of hay or straw so sold off, and it appeared that there was a substantial difference between the manurial value of hay and that of straw, it was held that the sum so made payable was a penalty and not liquidated damages, and that only the actual manurial value of the hay and straw sold off could be recovered. Generally speaking, where a sum is by contract payable for breach of a stipulation, and is proportioned to the extent of the breach, it is treated as liquidated damages and not a penalty: *Clydebank Engineering and Shipbuilding Co.* v. *Yzquierdo* (74 L. J. P. C. 1; (1905) A. C. 6).

The result of this section is to allow the actual damage only, and not the "higher rent or other liquidated damages" to be recovered in every case except in respect of covenants or conditions against breaking up permanent pasture, grubbing underwoods, or felling, cutting, lopping, or injuring trees, or regulating the burning of heather, in which cases the law will remain as before.

Freedom of cropping and disposal of produce.

26.—(1.)[1] Notwithstanding any custom of the country, or the provisions of any contract of tenancy or agreement respecting the method of cropping of arable lands, or the disposal of crops, a tenant of a holding shall have full right to practise any system of cropping of the arable land on the holding and to dispose of the produce of the holding without incurring any penalty, forfeiture, or liability:[2]

Provided that he shall previously have made, or, as soon as may be, shall make, suitable and adequate provision to protect the holding from injury or deterioration, which provision shall in the case of disposal of the produce

of the holding consist in the return to the holding of the full equivalent manurial value to the holding of all crops sold off or removed from the holding in contravention of the custom, contract, or agreement :[3]

This sub-section shall not apply—

(*a*) in the case of a tenancy from year to year, as respects the year before the tenant quits the holding or any period after he has given or received notice to quit which results in his quitting the holding ; or

(*b*) in any other case, as respects the year before the expiration of the contract of tenancy.[4]

(2.) If the tenant exercises his rights under this section in such a manner as to injure or deteriorate the holding, or to be likely to injure or deteriorate the holding, the landlord shall, without prejudice to any other remedy which may be open to him, be entitled to recover damages in respect of such injury or deterioration at any time, and, should the case so require, to obtain an injunction restraining the exercise of the rights under this section in that manner, and the amount of such damages may, in default of agreement, be determined by arbitration.[5]

(3.) A tenant shall not be entitled to any compensation in respect of improvements comprised in Part III. of the First Schedule to this Act which have been made for the purpose of making such provision to protect the holding from injury or deterioration as is required by this section.[6]

(4.) In this section the expression " arable land " shall not include land in grass which by the terms of any contract of tenancy is to be retained in the same condition throughout the tenancy.[7]

(1) This section reproduced sect. 3 of the Agricultural Holdings Act, 1906.

(2) The section gives freedom of cropping on arable lands, and of disposal of crops, whether from arable or grass land, notwithstanding any contract or custom to the contrary. It is submitted that the words " any system of cropping " do not render it necessary for the tenant to adopt some recognised system of rotation. As the

§ 26. freedom of cropping only extends to arable lands, grass lands may still be protected by agreement from excessive mowing or deterioration in other ways. In the Scottish case of *Taylor* v. *Steel-Maitland* (1913) S. C. 562), it was held that market garden ground is not "arable land" within the meaning of the section and therefore provisions of a lease respecting the cultivation of such ground are binding on the tenant notwithstanding this section.

(3) The provision made to protect the holding from injury or deterioration by the return of the "full equivalent manurial value" does not apply to all land, but only to cases where the sale or removal is in contravention of some custom, contract, or agreement. It is therefore usually desirable, in order to protect the land, either to insert in leases and tenancy agreements express covenants or agreements with regard to cropping and selling off, which will not be actually enforceable until the last year of the tenancy (see *Meggeson* v. *Groves*, 86 L. J. Ch. 145; (1917) 1 Ch. 158), but if broken will bind the tenant to preserve the holding from injury or deterioration, or to insert an express covenant or agreement against injury or deterioration of the holding. If no such covenant or agreement is included in the lease or agreement, compensation to the landlord for deterioration of the holding may be claimed under sect. 19 of the Agriculture Act, 1920 (*post*, p. 207), but notice in writing of such a claim must be given before termination of the tenancy. A covenant to consume on the premises all hay and fodder and to spread on the land all manure and compost produced and not to sell off any hay or fodder touches and concerns the land, and the benefit of it runs with the reversion in favour of an assignee of the land: *Chapman* v. *Smith* (76 L. J. Ch. 394; (1907) 2 Ch. 97).

It is submitted that "full equivalent manurial value" is an expression wide enough to include the mechanical as well as the chemical value of the crops sold off.

See Forms 19, 20, 21, 22, 23, 24.

(4) Where under a tenancy agreement a tenant contracts not to sell any hay without the landlord's consent, clause (b) will prevent his selling during the last year of the tenancy any hay whether the produce of that year or of the previous year without such consent: *Meggeson* v. *Groves* (86 L. J. Ch. 145; (1917) 1 Ch. 158).

(5) It is to be noted that this sub-section, giving the landlord a right to damages for past injury and to an injunction to restrain apprehended damage, only applies "if the tenant exercises his rights under this section," that is to say, where what the tenant does is in contravention of some custom, contract or agreement, so that, as pointed out above, covenants or agreements as to cropping and selling off will still in most cases be required although section 19

of the Agriculture Act, 1920 (*post*, p. 207), makes them less essential than before. See Forms 19, 20 and 21.

The damages given by this sub-section for injury or deterioration may be recovered "at any time," which includes the time when the tenancy is continuing, so that it will not be necessary for a landlord to wait until its determination before making a claim.

(6) Where a claim is made on the determination of a tenancy in respect of any of the improvements comprised in Part III. of the 1st Schedule, the claim may be defeated by showing that they were made as a manurial equivalent for the purpose of protecting the holding from the injury or deterioration that would have been caused by the tenant's breach of the custom or covenants which, but for this section, would have been binding upon him.

(7) The object of this sub-section is apparently to secure that the freedom of cropping allowed in respect of arable land shall not extend to any recently laid down grass land which may not have been sufficiently long in that condition to justify its being treated as old meadow or pasture, but it is to be noted that it only applies if the land in question is by the terms of the contract "to be retained in the same condition," *i.e.*, as grass, throughout the tenancy. Having regard to this provision, it may be advisable to insert in all leases and tenancy agreements an express covenant against breaking up any land in permanent grass at the commencement of the tenancy, whether recently laid down or not.

Record of holding.

27. *If at the commencement of a tenancy of a holding entered into after the commencement of this Act either party so requires, a record of the condition of the buildings, fences, gates, roads, drains, ditches, and cultivation of the holding shall be made within three months after the commencement of the tenancy by a person to be appointed in default of agreement by the Board, and in default of agreement the cost of making such record shall be borne by the landlord and the tenant in equal proportions.*[1]

(1) This section is repealed by the Agriculture Act, 1920, and a new provision for making a record of the holding is contained in sect. 26 of that Act (*post*, p. 213).

Distress.

Limitation of distress in

28. It shall not be lawful for a landlord entitled to the rent of a holding to distrain for rent which became due in

§ 28. respect of that holding more than one year before the making of the distress :[1]

respect of amount and time.

Provided that, where it appears that according to the ordinary course of dealing between the landlord and the tenant of the holding the payment of rent has been deferred until the expiration of a quarter or half year after the date at which the rent legally became due, the rent shall for the purpose of this section be deemed to have become due at the expiration of that quarter or half year, and not at the date at which it legally became due.[2]

The law relating to distress.

(1) Under the Real Property Limitation Act, 1833 (3 & 4 Will. 4, c. 27), s. 42, the landlord may distrain for six years' arrears of rent, and no more. This section, which reproduced sect. 44 of the Agricultural Holdings (England) Act, 1883, shortens the period for making a distress for rent to one year in the case of tenancies within the operation of the Act, that is, all agricultural tenancies. A landlord cannot distrain till the day after the rent becomes due : *Duppa* v. *Mayo* (1 Saund. 287). No distress can be made between sunset and sunrise : *Tutton* v. *Darke* (5 H. & N. 746). If rent is made payable quarterly "in advance if required," the landlord may distrain at any time during the quarter after demand : *London and Westminster Discount Co.* v. *London and North Western Ry.* (62 L. J. Q. B. 370 ; (1893) 2 Q. B. 49). A landlord is bound to allow a set off of the compensation due to the tenant against the rent due (sect. 31). See Dixon, p. 551.

Where an agreement for a lease provided that the lease should contain stipulations making the rent payable in advance on demand, and the tenant entered and held under the agreement, it was held that the lessee was subject to the same right of distress as if a lease had been granted, and that if under the terms of the lease a year's rent would have been payable in advance on demand, a distress for that was lawful : *Walsh* v. *Lonsdale* (52 L. J. Ch. 2 ; 21 Ch. D. 9).

Who may distrain.

The person legally entitled to the immediate reversion on a lease is the person entitled to distrain by virtue of the common law. A mortgagee, who has given notice of the mortgage to a tenant holding land under a lease or tenancy created prior to the mortgage, may distrain for rent in arrear at the time of the notice, or becoming in arrear subsequently : *Moss* v. *Gallimore* (1 Dougl. 279 ; 1 Sm. L. C. 12th edn. 580). The Conveyancing Act, 1881, s. 18, empowers a mortgagor or mortgagee while in possession to let the mortgaged land for agricultural purposes for any term not exceeding twenty-one years. When a lease is made by a mortgagor in possession under the powers conferred by this Act, the mortgagee, on giving

notice to the tenant and going into possession, is entitled to enforce the covenants and conditions contained in the lease in the same way as if he had been a party to it: *Municipal, &c. Society* v. *Smith* (58 L. J. Q. B. 61; 22 Q. B. D. 70). A mortgagee may, of course, distrain for rent due under a lease or agreement made by himself after the mortgage, though in a case not within the Conveyancing Act, 1881, he may not do so in the case of a lease or agreement made by the mortgagor after the mortgage, unless he has accepted rent from the tenant, or given him notice to pay rent and the tenant has acquiesced: *Rogers* v. *Humphreys* (5 L. J. K. B. 65; 4 A. & E. 299). The word "landlord," according to the definition in sect. 48, would include the mortgagee in these cases.

"Ordinary course of dealing."

(2) On many estates it is not usual to demand the rent till a quarter or half year after it becomes due. If, for instance, it is the practice of the landlord to hold his rent-audit at Christmas for the Michaelmas rents, that would no doubt be held to be sufficient evidence of the "ordinary course of dealing." It has been held in a case within sect. 44 of the Act of 1883 that a landlord may distrain for rent legally due at the time of the distress, but not yet payable "according to the ordinary course of dealing," and also for rent which has become due more than a year previously, but has become payable "according to the ordinary course of dealing" less than a year previously, although the total amount distrained for may thus exceed one year's rent: *Re Bew, Ex parte Bull* (56 L. J. Q. B. 270; 18 Q. B. D. 642).

After bankruptcy of the tenant the landlord may only distrain upon the goods or effects of the bankrupt for six months' rent accrued due prior to the date of the order for adjudication. See Bankruptcy Act, 1914 (4 & 5 Geo. 5 c. 59), s. 35.

Limitation of distress in respect of things to be distrained.

29.—(1.) Where live stock[1] belonging to another person has been taken in by the tenant of a holding to be fed at a fair price,[2] the stock shall not be distrained by the landlord for rent where there is other sufficient distress to be found, and, if so distrained by reason of other sufficient distress not being found, there shall not be recovered by that distress a sum exceeding the amount of the price agreed to be paid for the feeding, or any part thereof which remains unpaid.

(2.) The owner of the stock may, at any time before it is sold, redeem the stock by paying to the distrainer a sum equal to such amount as aforesaid, and any payment so made to the distrainer shall be in full discharge as

§ 29. against the tenant of any sum of the like amount which would be otherwise due from the owner of the stock to the tenant in respect of the price of feeding.

(3.) Any portion of the stock so long as it remains on the holding shall continue liable to be distrained for the amount for which the whole of the stock is distrainable.[3]

(4.) Agricultural or other machinery which is the property of a person other than the tenant, and is on the holding under an agreement with the tenant for the hire or use thereof in the conduct of his business, and live stock which is the property of a person other than the tenant and is on the holding solely for breeding purposes, shall not be distrained for rent.[4]

(1) See interpretation clause, sect. 48, *post*, p. 95.

"At a fair price."

(2) The words "at a fair price" will exclude cases where there is an absence of *bona fides*. The equivalent for which the live stock are agisted need not necessarily be money. In *London and Yorkshire Bank* v. *Belton* (54 L. J. Q. B. 568; 15 Q. B. D. 457), cows were agisted on the terms "milk for meat," *i.e.*, that the cows should feed on the farm, and the farmer should have their milk in return for the pasturage; and it was held that the agistment was within the corresponding sect. 45 of the Act of 1883, and that they were privileged from distress. In *Masters* v. *Green* (20 Q. B. D. 807) the tenant allowed the owner of certain cattle the exclusive right to feed the "grass on the land for four weeks" in consideration of 2*l*. The Court held that they were not "taken in to be fed at a fair price," the payment being in the nature of rent for use and occupation, and not for agistment at all. In *Re James, Ex parte Swansea Mercantile Bank* (24 T. L. R. 15) it was held that the taking in of stock for agistment on a farm is a well-known custom, so that stock on a farm are not to be considered within the order and disposition of a bankrupt farmer with the consent of the true owner, even though in fact there is no agistment. As to the liability of an agister for the safe custody of cattle sent to him for agistment, see *Coldman* v. *Hill* (88 L. J. K. B., 491; (1919) 1 K. B. 443).

(3) If the person who has agisted his stock at a certain price withdraws a portion of such stock before the price payable by agreement for the agistment has actually been paid, the landlord may distrain upon the stock still remaining for the whole of the price thus unpaid, although some of such price is in respect of the stock withdrawn.

(4) Previously to the Act of 1883, the principal exceptions from distress for rent in the case of agricultural tenancies were fixtures, things in actual use, beasts of the plough, and tools of trade; the two latter being liable to distress if there should not be other sufficient distress. To this list has been added (a) machinery on the premises of the tenant under a *bona fide* agreement for hire in the conduct of his business; (b) live stock of all kinds which is the *bona fide* property of a person other than the tenant, and is on the tenant's premises solely for breeding purposes; (c) live stock agisted with the tenant at a fair price. In the latter case, however, if there is no other sufficient distress, the landlord may distrain for a sum not exceeding the amount agreed to be paid for the feeding, and then unpaid, and the transaction must be a *bona fide* agistment. See *Masters* v. *Green* (20 Q. B. D. 807).

§§ 29, 30. Exceptions from distress.

The old law was that cattle upon land by way of agistment might be distrained for rent; though in *Miles* v. *Furber* (42 L. J. Q. B. 41; L. R. 8 Q. B. 77), Mellor J., doubted if it would apply if it were shown that a person exercised the trade of agisting cattle. See Rolle, Abr. 669; Cro. Eliz. 549; Dixon, p. 556.

30.—(1.) Where any dispute arises—

Remedy for wrongful distress.

(*a*) in respect of any distress having been levied on a holding contrary to the provisions of this Act; or

(*b*) as to the ownership of any live stock distrained, or as to the price to be paid for the feeding of that stock; or

(*c*) as to any other matter or thing relating to a distress on a holding:[1]

the dispute may be heard and determined by the County Court or by a Court of Summary Jurisdiction,[2] and any such Court may make an order for restoration of any live stock or things unlawfully distrained, or may declare the price agreed to be paid for feeding, or may make any other order[3] which justice requires.

(2.) Any such dispute shall be deemed to be a matter in which a Court of Summary Jurisdiction has authority by law to make an order on complaint in pursuance of the Summary Jurisdiction Acts;[4] but any person aggrieved by any decision of a Court of Summary Jurisdiction under this section may appeal to a Court of Quarter Sessions.[5]

§ 30.

Scope of the section.

(1) The operation of sub-clause (c) is very wide, and includes all disputes as to illegal or excessive distress which were formerly subjects of an action in the High Court of Justice: but see note (3), *infra*.

(2) It is to be observed that this section is permissive, and does not exclude the jurisdiction of the High Court, so that a person aggrieved may still bring an action for illegal distress if he think fit. Sect. 46 saves all present rights of a landlord or tenant not expressly excluded by the Act.

(3) The words "or may make any other order" might enable magistrates to award damages. Such an order would not seem to be quite outside their jurisdiction, as they have already power of enforcing certain civil debts; but it is not known that damages in a case of distress have ever been awarded under this section by a Court of Summary Jurisdiction, and it would not seem a suitable tribunal to deal with a claim for damages. See Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49) ss. 6 and 7. In *Lowe* v. *Dorling* (74 L. J. K. B. 794; (1905) 2 K. B. 501), a case under the Lodgers' Goods Protection Act, 1871, which gives justices jurisdiction in case of lodgers whose goods are seized under a distress, Lord Alverstone, C.J., said: "In my opinion, the words 'or otherwise' cannot possibly be held to give the magistrates power to make anyone pay damages for the illegal distress."

Procedure before a Court of Summary Jurisdiction or County Court.

(4) The matter will be brought before the Court of Summary Jurisdiction by a complaint made by the person aggrieved, followed by a summons issued thereupon. A complaint must be made within six months of the time when the matter of such complaint arose: *Morant* v. *Taylor* (45 L. J. M. C. 78; 1 Ex. D. 188). The mode of making and enforcing summary orders by the justices other than for the payment of money, is laid down in the Summary Jurisdiction Act, 1879, s. 34. The person making default may be ordered to pay a sum not exceeding 1*l.* for every day he is in default, or may be imprisoned till he has remedied his default.

If the dispute is to be settled by a County Court, the procedure laid down in the County Court Rules, Ord. XL. r. 8, must be adopted. See this rule, *post*, in Appendix II.

Procedure on appeal to the Quarter Sessions.

(5) The procedure on appeal to a Court of General or Quarter Sessions is regulated by the Summary Jurisdiction Act, 1879, s. 31. Notice in writing of the intention to appeal must be given to the other party, and to the clerk of the Court of Summary Jurisdiction within seven days after the day on which the decision of the Court (of Summary Jurisdiction) was given. Such notice must contain a statement of the general grounds of the appeal (sub-sect. 2). The appeal is to the next practicable Court of General or Quarter Sessions having jurisdiction in the county, borough, or place for

which the Court of Summary Jurisdiction acted, and holden not less than fifteen days after the day on which the decision was given, upon which the order was founded (sub-sect. 1). The notice required by sub-sect. 2 must be in writing, and may be transmitted as a registered letter by the post (sub-sect. 7).

The right to appeal to the High Court from the decision of a County Court under this section is not excluded by the express power given to appeal to the Court of Quarter Sessions from the decision of a Court of Summary Jurisdiction: *Hanmer* v. *King* (57 L. T. Rep. 507).

Set-off of compensation against rent.

31. Where the compensation [for disturbance or][1] for any improvement due under this Act or any enactment repealed by this Act, or under custom or agreement, to a tenant of a holding has been ascertained before the landlord distrains for rent, the amount of the compensation may be set off against the rent, and the landlord shall not be entitled to distrain for more than the balance.

(1) The words in brackets are inserted by the Agriculture Act, 1920.

Persons under Disability, Trustees, &c.

Appointment of guardian.

32. Where a landlord or a tenant is an infant without a guardian, or is of unsound mind, not so found by inquisition, the County Court on the application of any person interested may appoint a guardian of the infant or person of unsound mind for the purposes of this Act, and may revoke the appointment and appoint another guardian if and as occasion requires.[1]

(1) See County Court Rules, Ord. XL. r. 1, *post*, p. 257.

Provisions respecting married women. 45 & 46 Vict. c. 75.

33. Where a woman married before the commencement of the Married Women's Property Act, 1882,[1] is entitled to land, her title to which accrued before that commencement, then—

(*a*) if she is entitled to the land for her separate use and is not restrained from anticipation, she shall, for the purposes of this Act, be in respect of the land as if she were a feme sole [1] and

§§ 33, 34.

(*b*) in any other case[2] her husband's concurrence shall be requisite, and she shall for the purposes of this Act be examined apart from him by the County Court, or by the judge of the County Court for the place where she is, touching her knowledge of the nature and effect of the intended act, and it shall be ascertained that she is acting freely and voluntarily.

The Married Women's Property Act, 1882.

(1) A married woman, by the Married Women's Property Act, 1882 (45 & 46 Vict. c. 75), is, from the commencement of that Act (1st January, 1883), capable of acquiring, holding, and disposing by will or otherwise, of any real or personal property, as if she were a *feme sole* (sect. 1, sub-sect. 1), and every woman marrying after the commencement of the Act is entitled to have and to hold, as her separate property, and to dispose of in manner aforesaid, all real and personal property which shall belong to her at the time of marriage, or shall be acquired by or devolve upon her after marriage (sect. 2). And every woman married before the commencement of the Act is entitled to have and to hold, and to dispose of in manner aforesaid as her separate property, all real and personal property, her title to which accrues after the commencement of the Act (sect. 5).

(2) "Any other case," &c. includes the case of any woman, married before the commencement of the Act of 1882, entitled to land not for her separate use, or, if for her separate use, with a restraint upon anticipation. If restrained from anticipation, the Court, if it thinks it for her benefit, may, under sect. 39 of the Conveyancing Act, 1881, bind her interest in any property notwithstanding the restraint.

Provision as to limited owners.

34. Subject to the provisions of this Act in relation to Crown, duchy, ecclesiastical, and charity lands, a landlord of a holding, whatever may be his estate or interest in the holding, may give any consent, make any agreement, or do or have done to him any act in relation to improvements in respect of which compensation is payable under this Act, which he might give or make or do or have done to him if he were owner in fee simple, or, if his interest is an interest in a leasehold, were absolutely entitled to that leasehold.

§ 35.

Recovery of compensation, &c., from trustee.

35. Where any sum agreed or awarded to be paid for compensation, or any sum awarded under this Act to be paid by a landlord, is due from a landlord entitled to receive the rents and profits of the holding otherwise than for his own benefit, whether as trustee or in any other character, the sum due shall be charged and recovered as follows and not otherwise (that is to say) :—

(i) The amount so due shall not be recoverable personally against the landlord, nor shall he be under any liability to pay that amount, but it shall be a charge on and recoverable against the holding only ;

(ii) The landlord shall, either before or after having paid to the tenant the amount due to him, be entitled to obtain from the Board a charge on the holding to the amount of the sum which is required to be paid or which has been paid, as the case may be, to the tenant ;[1]

(iii) If the landlord neglects or fails to pay to the tenant the amount due to him for one month after it has become due, the tenant shall be entitled to obtain from the Board a charge on the holding to the amount of the sum due to him, and of all costs properly incurred by him in obtaining the charge ;

(iv) Charges under this section shall be made in like manner as other charges under this Act.[2]

Trustee obtaining a charge.

([1]) As the charge under this section (which differs in this respect from sect. 15) may be obtained before the money is actually paid, money may be obtained from a land improvement company without any actual advance by the landlord. The section also enables a trustee to take a charge in his own favour, which he may transfer to a land company or other mortgagee on their advancing the money.

Where under this sub-section a landlord trustee has first obtained a charge he may advance moneys belonging to the trust for payment of the compensation. Such an investment of trust money, being on real security, is authorised by the Trustee Act, 1893, s. 1. See also sect. 5, sub-sect. 1, of the same Act, which provides

§§ 35–37.

that any charge made under the Improvement of Land Act, 1864, or a mortgage of any charge, shall be an authorised security for trustees having power to invest money on real security, unless expressly forbidden by the trust.

In *Bennett* v. *Stone* (71 L. J. Ch. 60; (1902) 1 Ch. 226) there was an agreement for sale of real estate the completion of which was delayed for some time. A sum paid by the vendors to an outgoing tenant for tenant right pending completion was allowed to the vendors as a necessary disbursement.

(2) A charge under this section in order to be valid as against a purchaser for value of the land must be registered under the Lands Charges Registration and Searches Act, 1888. See sect. 19.

Estimation of best rent.

36. In estimating the best rent, or reservation in the nature of rent, of a holding for the purposes of any Act of Parliament, deed, or other instrument, authorising a lease to be made, provided that the best rent, or reservation in the nature of rent, is reserved, it shall not be necessary to take into account against the tenant any increase in the value of the holding arising from any improvements made or paid for by the tenant.[1]

Application of the section.

(1) This section applies to cases where a lease is granted to a tenant who has made or paid for improvements under this Act, and where the landlord, instead of paying compensation, agrees to allow the tenant to hold at a rent which does not include the value of the improvements. A landlord who under Act of Parliament, deed, or otherwise is bound to let at the best rent (*e.g.* a tenant for life acting under the Settled Land Act, 1882, s. 7, sub-s. 2) is thus empowered to compensate the tenant for his improvement by a rent below the full value of the land. See sect. 7 as to the right of a tenant in respect of improvements purchased from an outgoing tenant.

Crown and Duchy Lands.

Application to Crown lands.

37.—(1.) This Act shall apply to land belonging to His Majesty in right of the Crown.

(2.) With respect to any such land, for the purposes of this Act, the Commissioners of Woods, or other the proper officer or body having charge of the land for the time being, or, in case there is no such officer or body, then such person as His Majesty may appoint in writing under

the Royal Sign Manual, shall represent His Majesty, and shall be deemed to be the landlord.

(3.) The power given to the Treasury by section one of the Crown Lands Act, 1866 (being a power to direct the cost of certain improvements to be charged to capital and repaid out of income), shall extend to any compensation under this Act payable by the Commissioners of Woods in respect of an improvement comprised in Part I. or Part II. of the First Schedule hereto. 29 & 30 Vict. c. 62.

(4.) Any compensation under this Act payable by those Commissioners, in respect of an improvement comprised in Part III. of the First Schedule hereto, shall be paid as part of the expenses of the management of the Land Revenues of the Crown.

Application to land of Duchy of Lancaster.

38.—(1.) This Act shall apply to land belonging to His Majesty in right of the Duchy of Lancaster.

(2.) With respect to any such land for the purposes of this Act, the Chancellor of the Duchy shall represent His Majesty, and shall be deemed to be the landlord.

(3.) The amount of any compensation under this Act payable by the Chancellor of the Duchy in respect of an improvement comprised in Part I. or Part. II. of the First Schedule to this Act shall be raised and paid as an expense incurred in improvement of land belonging to His Majesty in right of the Duchy within section twenty-five of the Act of the fifty-seventh year of King George the Third, chapter ninety-seven.

(4.) The amount of any compensation under this Act payable by the Chancellor of the Duchy in respect of an improvement comprised in Part III. of the First Schedule to this Act shall be paid out of the annual revenues of the Duchy.

Application to land of Duchy of Cornwall.

39.—(1.) This Act shall apply to land belonging to the Duchy of Cornwall.

(2.) With respect to any such land, for the purposes of this Act, such person as the Duke of Cornwall, or the

§§ 39, 40. possessor for the time being of the Duchy of Cornwall, appoints, shall represent the Duke of Cornwall, or other the possessor aforesaid, and be deemed to be the landlord, and may do any act or thing under this Act which a landlord is authorised or required to do thereunder.

(3.) Any compensation under this Act payable by the Duke of Cornwall, or other the possessor aforesaid, in respect of an improvement comprised in Part I. or Part II. of the First Schedule to this Act, shall be paid, and advances therefor made, in the manner and subject to the provisions of section eight of the Duchy of Cornwall Management Act, 1863, with respect to improvements of land mentioned in that section.

26 & 27 Vict. c. 49.

Ecclesiastical and Charity Lands.

Application to ecclesiastical land.

40.—(1.) Where lands are assigned or secured as the endowment of a see, *the powers by this Act conferred on a landlord* (*other than that of entering on a holding for the purpose of viewing the state of the holding*) [the powers by this Act conferred on a landlord in respect of charging land][1] shall not be exercised by the bishop in respect of those lands, except with the previous approval in writing of the Estates Committee of the Ecclesiastical Commissioners.

(2.) Where a landlord is incumbent of an ecclesiastical benefice, *the powers by this Act conferred on a landlord* (*other than as aforesaid*) [the powers by this Act conferred on a landlord in respect of charging land][1] shall not be exercised by him in respect of the glebe land or other land belonging to the benefice, except with the previous approval in writing of the patron of the benefice, that is, the person or authority who, in case the benefice were vacant, would be entitled to present thereto, or of Queen Anne's Bounty.

(3.) Queen Anne's Bounty may, if they think fit, on behalf of the incumbent, out of any money in their hands, pay to the tenant the amount of compensation due to him in respect of any improvement comprised in the First

Schedule hereto ; and thereupon they may, instead of the incumbent, obtain from the Board a charge on the holding in respect thereof in favour of themselves, and every such charge shall be effectual notwithstanding any change of the incumbent. §§ 40–42.

(1) The words in italics have been repealed, and the words in brackets substituted therefor by sect. 23 of the Agriculture Act, 1920. The result is that the bishop in respect of land being the endowment of a see and the incumbent in respect of glebe land or other land belonging to the benefice may exercise all the powers of consenting to improvements and otherwise given to landlords by the Act (except the power of charging compensation upon the land under sect. 15) without the consent of the Ecclesiastical Commissioners, the patron of the benefice, or Queen Anne's Bounty as the case may be. Previous approval of the Ecclesiastical Commissioners, &c.

41. The powers by this Act conferred on a landlord in respect of charging the land shall not be exercised by trustees for ecclesiastical or charitable purposes, except with the approval in writing of the Charity Commissioners or the Board of Education, as the case may require. Application to charity land.

Special Provisions as to Market Gardens.

42.—(1.) In the case of a holding in respect of which it is agreed by an agreement in writing made on or after the first day of January eighteen hundred and ninety-six that the holding shall be let or treated as a market garden— Special provisions as to market gardens.

(i) the provisions of this Act shall apply as if the improvements comprised in the Third Schedule to this Act were comprised in Part III. of the First Schedule to this Act :[1]

Provided that—

(*a*) in the case of Crown lands, compensation in respect of an improvement comprised in paragraphs (1) (2) and (5) of the said Third Schedule shall be paid in the same manner and out of the same funds as if it were an improvement comprised in Part I. of the said First Schedule ; and

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(*b*) in the case of Duchy lands, compensation in respect of any improvement comprised in the said Third Schedule shall be paid in the same manner and out of the same funds as if it were comprised in Part I. of the said First Schedule ;

(*c*) The right of an incoming tenant to claim compensation in respect of the whole or part of an improvement which he has purchased may be exercised although his landlord has not consented in writing to the purchase ;[2]

(ii) The provisions of this Act relating to tenants' property in fixtures and buildings shall extend to every fixture or building affixed or erected by the tenant to or upon the holding, or acquired by him since the thirty-first day of December nineteen hundred, for the purposes of his trade or business as a market gardener ;[3]

(iii) It shall be lawful for the tenant to remove all fruit trees and fruit bushes planted by him on the holding and not permanently set out ;[4] but, if the tenant does not remove such fruit trees and fruit bushes before the determination of his tenancy, they shall remain the property of the landlord, and the tenant shall not be entitled to any compensation in respect thereof.

(2.) Where under a contract of tenancy current on the first day of January eighteen hundred and ninety-six a holding was at that date in use or cultivation as a market garden with the knowledge of the landlord, and the tenant thereof has then executed thereon, without having received previously to the execution thereof any written notice of dissent by the landlord, any improvement comprised in the Third Schedule to this Act, the provisions of this section shall apply, in respect of that holding, as if it had been agreed in writing after that date that the holding should be let or treated as a market garden, so however that the improvements in respect of which compensation is payable

under those provisions as so applied shall include improvements executed before as well as improvements executed after that date.[5] *Provided that where such a tenancy was a tenancy from year to year, the compensation payable in respect of an improvement comprised in the Third Schedule to this Act shall be such (if any) as could have been claimed if this Act had not been passed.*[6] § 42.

(3.) Where the land to which such agreement relates, or so used and cultivated, consists of part of a holding only, this section shall apply as if that part were a separate holding.

Tenancies affected by the Act.

(1) In the case of a holding not in use or cultivation as a market garden on January 1st, 1896 (the commencement of the Market Gardeners' Compensation Act, 1895), in order that the tenant may reap the benefits of this sub-section, it is necessary that there should be an agreement in writing that the holding shall "be let or treated as a market garden," or a direction must have been obtained under section 15, sub.-sect. 3 of the Agriculture Act, 1920, that this section either in respect of all the improvements comprised in the Third Schedule or in respect of some only of those improvements shall apply to the holding or part of the holding. In the case of a lease or tenancy agreement to comply with this section it is probably sufficient that the holding should be described in terms which show an intention that it shall be treated as a market garden. It is not necessary that the whole of the land demised should be so let or treated; it is sufficient if by agreement in writing a part of it is cultivated "wholly or mainly" for the purpose or trade or business of market gardening (see sub-sect. 3 of this section). In such a case the section will apply to that part. See *Callander* v. *Smith* (37 Sc. L. R. 890; 2 Fraser, 1140). Where the holding is not so let or treated originally, in order that the section may operate the tenant must obtain a supplemental agreement from his landlord allowing him so to treat it. Form 17 may be used if it is desired to avoid the liability to compensate for fruit trees or fruit bushes. As to the meaning of the word "market garden" see note 4 to sect. 48 (post p. 97).

The manager of an estate has, in the absence of any limitation of his authority, power to bind the landlord by an agreement with the tenant that the latter may be at liberty to change the cultivation of an estate from agricultural land to that of a market garden: *Re Pearson and I'Anson* (68 L. J. Q. B. 878; (1899) 2 Q. B. 618).

Even if the consent of the landlord is not obtained, the conver-

§ 42.

sion of arable and pasture land into a market garden and the erection of glass-houses thereon does not constitute a breach of a covenant to cultivate the farm "in a good and husbandlike manner according to the best rules of husbandry practised in the neighbourhood": *Meux* v. *Cobley* (61 L. J. Ch. 449; (1892) 2 Ch. 253).

Right of incoming tenant who has paid for improvement.

(2) Sect. 7 of this Act gives the right to an incoming tenant who, "with the consent in writing of his landlord," has paid compensation for an improvement to an outgoing tenant "under or in pursuance of" the Act, to claim against the landlord on quitting his holding in respect of that improvement. This right can, under the present section, be obtained by payment to an outgoing tenant, *without* the consent of the landlord in the case of improvements on land agreed to be let or treated as a market garden.

Fixtures.

(3) The result of this sub-section is that any fixture or building affixed or erected by the tenant, or acquired by him since December 31, 1900 (immediately after which the Act of 1900 came into operation), "for the purposes of his trade or business of a market gardener," is removable by the tenant "before or within a reasonable time after the termination of the tenancy" upon one month's notice in writing to the landlord, who will have an option of purchasing at a fair value. The tenant thus has an alternative right in respect of such buildings and fixtures. He may either claim compensation under item 5 of the Third Schedule to this Act, or he may assert his right to remove. In the latter case the landlord may elect to purchase under sect. 21, sub-sect. 1 (v). See sect. 21, and the notes thereto, *ante*, p. 65.

Removal of trees and shrubs.

(4) Apart from the powers conferred by the Market Gardeners' Compensation Act, 1895, and this Act, trees and shrubs planted would not be removable by the tenant unless they were planted by a nurseryman for the purposes of his trade and are not too aged for transplanting, *i.e.*, "not permanently set out": *Wardell* v. *Usher* (3 Scott, N. R. 508). The ploughing up of strawberry beds out of the ordinary course of management has been held to be waste, although the tenant may have paid for them in a valuation when he entered: *Watherell* v. *Howells* (1 Camp. 227).

Construction of section.

(5) This sub-section, which took the place of sect. 4 of the Market Gardeners' Compensation Act, 1895, has placed a tenant under a contract of tenancy current at the commencement of the Act of 1895 (January 1, 1896) in a better position as regards compensation than one whose tenancy commenced after that date. In order to be able to claim compensation, a tenant under such a current tenancy has only to show that he has then (*i.e.*, on January 1, 1896) executed some one of the improvements in respect of which the Act gives him a right to compensation or removal without any written dissent by his landlord, and that his holding is at that

date, *to the knowledge of his landlord*, cultivated as a market garden, and he at once, without the necessity of obtaining any consent from his landlord to its future cultivation in that way, such as is required by the previous sub-section in the case of a tenancy commenced after January 1, 1896, becomes entitled to claim compensation under the provisions of the Act for any improvement executed by him after the commencement of the Act. § 42.

The correct interpretation of sect. 4 of the Act of 1895, which was not by itself clear, was shown by the Scottish case of *Smith* v. *Callander* (70 L. J. P. C. 53; (1901) A. C. 297), in which the House of Lords affirming a decision of the Court of Session, who had to deal with the corresponding section in the Market Gardeners' Compensation (Scotland) Act, 1897, held that the section did not entitle a tenant, under a lease current at the commencement of the Act, to claim compensation in respect of market garden improvements executed prior to the commencement of the Act, but they considered that he was entitled to claim in respect of improvements executed after the commencement of the Act on the condition that he "had then executed thereon" improvements without having received from the landlord written notice of dissent. The House were of opinion that the word "then" meant "thereupon" or "thereafter." The result, therefore, was that the tenant, by executing improvements, obtained the right to claim compensation under the Act, but the claim could only be properly made in respect of improvements executed after the commencement of the Act. In *Mears* v. *Callender* (70 L. J. Ch. 621; (1901) 2 Ch. 388) Cozens-Hardy, J., followed the above decision of the House of Lords in an English case.

The effect of this decision was annulled by the Agricultural Holdings Act, 1906, s. 5, as from 1st January, 1909, when the Act was to have come into operation, and the words of the present sub-section, "so however that," &c., are intended to effect the same object—that is to say, to make the operation of the sub-section retrospective as regards the holdings with which it deals, and enable the tenant who comes within it to obtain compensation for improvements carried out (*e.g.*, the planting of fruit trees) before January 1, 1896, as well as after that date, subject, however, to the proviso with which the sub-section concludes.

In *Taylor* v. *Steel-Maitland* (50 Sc. L. R. 395; (1913) S. C. 562), it was held in Scotland (Lord Johnston dissenting) that where a tenant annually kept 50 acres (part of a farm of 150 acres), but not always the same 50 acres, under cultivation as a market garden, the fact that the ground cultivated as a market garden varied from time to time, did not prevent the 50 acres under such cultivation at the expiry of the lease from being a market garden within sect. 29

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of the Agricultural Holdings (Scotland) Act. 1908 (corresponding with sect. 42 of this Act) for the purpose of a claim for compensation for improvements. It was also held in the same case that a "notice of dissent" by the landlord to the execution of an improvement under sect. 29, sub-s. 2 (sect. 42, sub-s. 2 of this Act) might be given after January 1, 1898 (January 1, 1896, under this Act) so as to disentitle the tenant to compensation. The word "then" in the sentence "and the tenant thereof has *then* executed thereon" was held in the same case to mean "thereafter" following the opinion expressed by the House of Lords in *Smith* v. *Callander* (70 L. J. P. C. 53; (1901) A. C. 297). It would appear therefore that under section 42, sub-s. 2, a tenant holding under a contract of tenancy current on January 1, 1896, has a right to compensation for the improvements mentioned in the Third Schedule if any part of the holding was in use or cultivation as a market garden on January 1, 1896, with the knowledge of the landlord, and if the tenant *after that date* without written notice of dissent by the landlord executes thereon any improvement comprised in the Third Schedule. The improvements in respect of which he may obtain compensation are by the express words of the sub-section not confined to those executed after January 1, 1896, but include those executed (*e.g.*, fruit trees planted) before as well as after that date. But land is not "in use or cultivation as a market garden" within the meaning of the sub-section if it has merely been ploughed by the tenant with the intention of preparing the land for use as a market garden and if such ploughing would have been equally suitable for ordinary agricultural purposes: *Re Morse and Dixon* (87 L. J. K. B. 1).

Preservation of existing rights.

(6) The words in italics were repealed by the Agricultural Holdings Act, 1913 (*post*, p. 118). The proviso was intended to preserve the respective rights of landlord and tenant in respect of yearly tenancies which were current on 1st January, 1896 (the commencement of the Market Gardeners' Compensation Act, 1895), as they would have been under the previous Acts if this Act had not been passed. What those rights were was decided in *Re Kedwell and Flint & Co.* (80 L. J. K. B. 707; (1911) 1 K. B. 797) and that decision led to the passing of the Act of 1913.

Supplemental Provisions.

Exclusion of certiorari.

43. An order of the County Court or of a Court of Summary Jurisdiction under this Act shall not be quashed for want of form, or be removed by certiorari or otherwise into any Superior Court.[1]

(1) Under words in the Prevention of Cruelty to Animals Act,

1849 (12 & 13 Vict. c. 92), s. 26, similar to those in this section, it was held that the Court of Queen's Bench was precluded from entertaining a case stated by justices for the opinion of the Court: *Reg.* v. *Chantrell* (14 L. J. M. C. 94; L. R. 10 Q. B. 587); but see the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 19), s. 40.

Costs in County Court.

44.—(1) The costs of proceedings in the County Court under this Act shall be in the discretion of the Court.

(2) The Lord Chancellor may prescribe scales of costs for those proceedings, and of costs to be taxed by the registrar of the Court.[1]

(1) See Order of the Lord Chancellor as to costs, *post*, p. 93.

Service of notice, &c.

45. Any notice, request, demand, or other instrument under this Act may be served on the person to whom it is to be given either personally or by leaving it for him at his last known place of abode in England, or by sending it through the post in a registered letter addressed to him there; and in the case of a notice to a landlord "the person to whom it is to be given" shall include any agent of the landlord duly authorised in that behalf.[1]

(1) This section applies to notices to quit in the case of tenancies to which the Act applies. Consequently any such notice to quit will be properly served if sent through the post in a registered letter addressed to the person to whom it is to be given at his last known place of abode in England: *Van Grutten* v. *Trevenen* (71 L. J. K. B. 544; (1902) 2 K. B. 82).

It is to be noted that the agent of the landlord "duly authorised in that behalf," is included in the expression "the person to whom it is to be given." The question of authority to receive notices to quit would be one of fact in each case, but probably an estate agent appointed by a landlord to manage his property, and deal with his tenants generally, would be inferred to have authority to receive and give notices.

General saving of rights.

46. Except as in this Act expressed, nothing in this Act shall prejudicially affect any power, right, or remedy of a landlord, tenant, or other person vested in or exercise-able by him by virtue of any other Act or law, or under any custom of the country, or otherwise, in respect of a

§§ 46–48. contract of tenancy or other contract, or of any improvements, waste, emblements, tillages, away-going crops, fixtures, tax, rate, tithe rent charge, rent, or other thing.

Improvements executed under repealed enactments.

47. Except as otherwise expressly provided by this Act, the compensation in respect of an improvement made or begun before the commencement of this Act, or made upon a holding held under a contract of tenancy, other than a tenancy from year to year, current on the first day of January eighteen hundred and eighty-four[1] shall be such (if any) as could have been claimed if this Act had not been passed, but the procedure for the ascertainment and recovery thereof shall be such as is provided by this Act, and the amount so ascertained shall be payable, recoverable, and chargeable as if it were compensation under this Act.

([1]) As to compensation for improvements upon holdings held under contracts of tenancy other than tenancies from year to year current on 1st January, 1884, see the Agricultural Holdings (England) Act, 1883, s. 5. There are probably very few (if any) such contracts of tenancy still subsisting.

48.—(1.) In this Act, unless the context otherwise requires,—

"Contract of tenancy" means a letting of or agreement for letting land for a term of years, or for lives, or for lives and years, or from year to year;[1]

"Determination of tenancy" means the cesser of a contract of tenancy by reason of effluxion of time, or from any other cause;

"Landlord" means any person for the time being entitled to receive the rents and profits of any land;[2]

"Tenant" means the holder of land under a contract of tenancy, and includes the executors, administrators, assigns, guardian, committee of the estate, or trustee in bankruptcy, of a tenant, or other person deriving title from a tenant;

§ 48.

"Holding" means any parcel of land held by a tenant, which is either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral, or in whole or in part cultivated as a market garden, and which is not let to the tenant during his continuance in any office, appointment, or employment held under the landlord ; [3]

"Market garden" means a holding cultivated, wholly or mainly, for the purpose of the trade or business of market gardening ; [4]

"Board" means the Board of Agriculture and Fisheries ;

"County court," in relation to a holding, means the county court within the district whereof the holding, or the larger part thereof, is situate ;

"Live stock" includes any animal capable of being distrained ;

"Manuring" means any of the improvements numbered twenty-three, twenty-four, and twenty-five in Part III. of the First Schedule hereto ;

"Agreement" includes an agreement arrived at by means of valuation or otherwise, and "agreed" has a corresponding meaning.[5]

(2.) The designations of landlord and tenant shall continue to apply to the parties until the conclusion of any proceedings taken under or in pursuance of this Act in respect of compensation for improvements, or under any agreement made in pursuance of this Act.

Tenancy from year to year.

(1) A tenant from year to year is one who holds under a demise (express or implied) for a term which may be determined at the end of the first or any subsequent year either by the landlord or tenant by a notice to quit : Dixon, p. 455. It may be created by a general letting at a yearly rent without any limitation as to time. *Ibid.* p. 473.

An agreement to let at a yearly rent payable quarterly, determinable on any day of the year by three calendar months' notice to quit, will create a tenancy from year to year : *King* v. *Eversfield* (66 L. J. Q. B. 809 ; (1897) 2 Q. B. 475) ; *Dixon* v. *Bradford &*

§ 48. *District, &c., Co.* (73 L. J. K. B. 136; (1904) 1 K. B. 444); *Lewis* v. *Baker* (75 L. J. K. B. 848; (1906) 2 K. B. 599).

In *Lockhart* v. *Osborn* (36 Sol. J. 365) it was held in a County Court by H.H. Judge Bagshawe that the Act applies in the case of a tenancy for one year certain as being included in the expression "a term of years."

Who is a "landlord."

(2) "Landlord" will include a mortgagee in possession. By sect. 12, a mortgagee who deprives the occupier of possession is liable to compensate him for his crops and expenditure.

In *Mansel v. Norton* (52 L. J. Ch. 357; 22 Ch. D. 769), an owner in fee demised a farm for seven years, and agreed, at the expiration of the term, to pay for the tenant's property on the farm at a valuation. He devised the land to trustees for a term of 1,000 years, upon trust to raise money in aid of his personal estate, and subject thereto to the plaintiff for life, with divers remainders over. On the testator's death the plaintiff took possession. On the expiration of the term a new tenant could not be found. The plaintiff paid the outgoing tenant for his property on the farm, and claimed to be repaid out of the testator's estate. It was held that the landlord for the time being was the person primarily liable, and that the plaintiff (being in receipt of the rents and profits) was the landlord, and not the trustee of the term, and that he therefore was the person primarily liable, and had no claim to be repaid wholly or in part out of the testator's estate or by the persons entitled in remainder. In *Riddell's Executors* v. *Milligan's Executors* ((1909) S. C. 1137) it was held in Scotland that the executors of a lessor whose estate was entailed were under a lease containing an obligation to take over the sheep stock at the termination of the lease "by the proprietor or incoming tenant" bound to take over the sheep stock. See also *Gardiner's* v. *Stewart's Trustees* (1908), S. C. 985). In *Bath* v. *Bowles* (93 L. T. 80) it was held that the executors of a lessor were not liable to pay compensation for unexhausted improvements in respect of land resumed under a proviso for that purpose where the lessor had sold the land and the notice to resume possession of part of the land was given by the purchasers.

In *Bradshaw* v. *Bird* (90 L. J. K. B. 221; (1920) 3 K. B. 144) it was held that by virtue of the definition in this clause the compensation for disturbance payable under the now repealed Agricultural Holdings Act, 1914, when a tenancy has been terminated by notice to quit in view of the sale of the holding, is to be paid by the person entitled to receive the rents and profits of the land when the tenancy in fact terminated and not by the landlord who gave the notice to quit.

What is an "agricultural holding."

(3) There is no definition in the Act of what is to be considered an "agricultural" holding. In the Agricultural Rates Act, 1896 (59 and 60 Vict. c. 16), s. 9, "agricultural land" is defined as

meaning "any land used as arable, meadow, or pasture ground only, cottage gardens exceeding one quarter of an acre, market gardens, nursery grounds, orchards, or allotments, but does not include land occupied together with a house as a park, gardens, other than as aforesaid, pleasure-grounds, or any land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse." It is submitted that the meaning in this Act is at least as extensive as in the Agricultural Rates Act. The occupier of a market garden covered with glass-houses was, in *Smith* v. *Richmond* (68 L. J. Q. B. 898; (1899) A. C. 448), held not to be an occupier of agricultural land within the Agricultural Rates Act, 1896, and therefore not entitled to the exemption from rates conferred by that Act, which was intended to be given to land only, and not to land covered with buildings. The antithesis between land and buildings in that Act is not found in the present Act, and probably land covered with buildings such as glass-houses for market gardening purposes would be entitled to the benefit of this Act. In *Inland Revenue Commissioners* v. *Ransom* (88 L. J. K. B. 342; (1918) 2 K. B. 709) it was held that the growing of medicinal herbs might come under the term "husbandry."

In *Mackintosh* v. *Lovat* (*Lord*) (14 Rettie, 252) it was held in Scotland that the Act did not apply to the case of an hotel and 30 acres of land, let as one subject, and in *Taylor* v. *Moray* (*Earl*) (19 Rettie, 399), also in Scotland, it was held not to apply to three-quarters of an acre of land, one-third being occupied as a dwelling-house and garden and the remainder as a grass park. In *Re Lancaster and Macnamara* (87 L. J. K. B. 1250; (1918) 2 K. B. 472) an inn was demised together with 86 acres of pastoral land, upon which were certain barns and other outbuildings, at a rental of £171 per annum. The inn was rated at £32 and the rest of the land demised at £102 15s. It was held that the property so demised was not an "agricultural holding," and that the word "holding" could not under this definition be read as if it applied to every separate parcel of land included in a demise so as to bring agricultural or pastoral land included in a letting with other property within the scope of the Act and enable a tenant thereof to obtain compensation thereunder. But the effect of this decision has now been to some extent removed by the Agriculture Act, 1920, Sect. 24, which extends the meaning of the word "holding."

(4) This section defines the meaning of a "market garden," but it leaves unexplained the expression "the trade or business of market gardening."

Meaning of "market garden."

In *Cooper* v. *Pearse* (65 L. J. M. C. 95; (1896) 1 Q. B. 562 a garden is defined by Collins, J., as "a place where fruit and vege-

§§ 48, 49. tables are grown for food, or a place laid out for pleasure," and in *Purser* v. *Worthing Local Board* (56 L. J. M. C. 78; 18 Q. B. D. 818) a piece of land, on which were built 16 greenhouses or glasshouses which practically covered the surface of the land and were used for growing vegetables and fruit for sale, was held to constitute a "market garden or nursery ground" within sect. 211, sub-sect 1, of the Public Health Act, 1875. Probably "market gardening" may be taken to mean "the growing for sale of garden produce, whether fruit, flowers, or culinary vegetables," as distinguished from farm produce. It is submitted that a farmer who *occasionally* grows a market garden crop, *e.g.*, cabbages or carrots, and sells the same for consumption as garden produce, does not come within the Act having regard to the words "wholly or mainly," nor does a person in possession of a garden who occasionally sells surplus garden produce. See *Re Hammond* (14 L. J. Bk. 14; De G. 93), where a farmer, who was in the habit of growing in open fields a quantity of peas and young potatoes as a fallow crop and sending them to London for sale, was held not to be a market gardener within the Bankruptcy Act 1542—(5 & 6 Vict. c. 122) s. 10. It is not necessary, however, that the whole of the holding should be cultivated as a market garden. In *Bickerdike* v. *Lucy* (89 L. J. K. B. 559; (1920) 1 K. B. 707) a person employed in a private garden, some of the surplus produce of which was sold, was held not to be employed in a "market garden." See also *Re Wallis Ex parte Sully* (14 Q. B. D. 950).

The Act will apply if and so far as part of the holding is "wholly or mainly" so cultivated, *e.g.*, a farmer who devotes part of his farm to the growing of fruit, flowers, or culinary vegetables for sale, if his landlord agrees in writing to his so treating it, may claim compensation under the Act. See *Callander* v. *Smith* (37 Sc. L. R. 890; 2 Fraser, 1140), where it was held by Lord Kyllachy and acquiesced in by the Court of Session that in the construction of the Act the term "holding" includes "part of a holding," and consequently that the Market Gardeners Compensation (Scotland) Act, 1897, applied where part of a farm, held under an ordinary agricultural lease, had been cultivated as a market garden prior to the commencement of that Act.

A fruit farm, it is submitted, is a "market garden" within the meaning of the Act, but not so an orchard attached to a farm and used for the production of fruit mainly for domestic consumption or cider making, although fruit may occasionally be sold off.

(5) As to an agreement arrived at by means of a valuation, see notes on sect. 13, *ante* p. 60.

Repeal.

49. The enactments specified in the Fourth Schedule

to this Act are hereby repealed to the extent mentioned in the third column of that schedule : §§ 49–51.

Provided that—

(a) all orders, rules, scales of costs, and instruments issued and notices and consents given and having effect under any enactment hereby repealed shall have effect as if they had been made or given under this Act ; and

(b) references in any conveyance, lease, or other document to any enactment so repealed shall have effect as if they had been references to the corresponding provisions of this Act.

Commencement.

50. This Act shall come into operation on the first day of January nineteen hundred and nine.

Short title and extent.

51.—(1.) This Act may be cited as the Agricultural Holdings Act, 1908.

(2.) This Act shall not extend to Scotland or Ireland.

SCHEDULES.

Sched. I.

Sects. 1, 2, 5, 6, 15, 20, 37, 38, 39, 40, 42.

FIRST SCHEDULE.

Part I.

Improvements to which Consent of Landlord is required.

(1.) Erection, alteration, or enlargement of buildings.

(2.) Formation of silos.

(3.) Laying down of permanent pasture.

(4.) Making and planting of osier beds.

(5.) Making of water meadows or works of irrigation.

(6.) Making of gardens.

(7.) Making or improvement of roads or bridges.

(8.) Making or improvement of watercourses, ponds, wells, or reservoirs, or of works for the application of water power or for supply of water for agricultural or domestic purposes.

(9.) Making or removal of permanent fences.

(10.) Planting of hops.

(11.) Planting of orchards or fruit bushes.

(12.) Protecting young fruit trees.

(13.) Reclaiming of waste land.

(14.) Warping or weiring of land.

(15.) Embankments and sluices against floods.

(16.) Erection of wirework in hop gardens.

[(16*a*.) Provision of permanent sheep-dipping accommodation.

(16*b*.) In the case of arable land the removal of bracken, gorse, tree-roots, boulders, or other like obstructions to cultivation.][1]

[*N.B.—This part is subject as to market gardens to the provisions of the 3rd Schedule.*]

PART II. Sects. 3, 15, 20, 37, 38, 39.

Improvement in respect of which Notice to Landlord is required.

(17.) Drainage.

PART III. Sects. 4, 26, 37, 38, 42, 48.

Improvements in respect of which Consent of or Notice to Landlord is not required.

(18.) Chalking of land.

(19.) Clay-burning.

(20.) Claying of land or spreading blaes upon land.

(21.) Liming of land.

(22.) Marling of land.

(23.) Application to land of purchased artificial or other purchased manure.

(24.) Consumption on the holding by cattle, sheep, or pigs, or by horses other than those regularly employed on the holding, of corn, cake, or other feeding stuff not produced on the holding.[2]

(25.) Consumption on the holding by cattle, sheep, or pigs, or by horses other than those regularly employed on the holding, of corn proved by satisfactory evidence to have been produced and consumed on the holding.[2]

(26.) Laying down temporary pasture with clover, grass, lucerne, sainfoin, or other seeds, sown more than two years prior to the determination of the tenancy [in so far as the value of the temporary pasture on the holding at the time of quitting exceeds the value of the temporary pasture on the holding at the commencement of the tenancy for which the tenant did not pay compensation.][3]

(27.) Repairs to buildings, being buildings necessary for the proper cultivation or working of the holding, other than repairs which the tenant is himself under an obligation to execute :

Provided that the tenant, before beginning to execute any such repairs, shall give to the landlord notice in

Sched. I. writing of his intention, together with particulars of such repairs, and shall not execute the repairs unless the landlord fails to execute them within a reasonable time after receiving such notice.[4]

(1) The words in square brackets are added by the Agriculture Act, 1920.

(2) It is to be observed that items 24 and 25 do not apply to feeding stuffs or corn consumed by horses "regularly employed on the holding," which, it is presumed, excludes the ordinary ploughing and carting staff of the farm, but not hunters or nag-horses or breeding stock.

In order to substantiate a claim under item 25 "satisfactory evidence" must be produced, and it will be important that a tenant who may propose to make such a claim should keep an accurate record of corn produced on the holding and consumed as mentioned.

(3) The words in square brackets are added by the Agriculture Act, 1920, presumably to prevent a tenant obtaining compensation for temporary pasture laid down by him which does not exceed the amount of such pasture which he took over on entry without payment whether or not sown more than two years before that date. See *Galloway* (*Earl*) v. *McClelland* (1915) S. C. 1062) where the question was raised whether under the Act of 1908 temporary pasture received by the tenant on entry without payment could be set off against his claim for temporary pasture laid down. In order to claim compensation for "laying down" temporary pasture, it is not enough for the tenant to leave temporary pasture which he would have been entitled to break up: *Findlay* v. *Munro* ((1917) S. C. 419).

The actual cost of planting of clover and other "seeds" mentioned in item 26 is very commonly given by the custom of the country to an outgoing tenant, but the right to claim is generally limited to cases where the sowing has taken place not more than one or two years prior to the determination of the tenancy. In *Hamilton-Ogilvy* v. *Elliott* (7 Fraser, 1115), it was held in Scotland that a tenant, whose lease determined less than two years from the date of the Agricultural Holdings Act, 1900, which first gave the right to compensation for clover, grass, &c., sown more than two years prior to the determination of the tenancy, was entitled to compensation under that enactment. The question has been raised whether under this item a tenant may obtain compensation for grass originally laid down during his tenancy as temporary pasture which has remained unploughed and gradually acquired the character of permanent pasture before the determination of the tenancy. The character of the herbage would appear not to affect the tenant's

right so long as between him and his landlord he is not bound to let it remain as permanent pasture. It is submitted that he can therefore obtain compensation for such pasture under this item, but that the compensation would be assessed on the basis of its value to an incoming tenant, who will deal with it as temporary pasture, and plough it up either at once or in due course. To treat it not so, but as if it were permanent pasture would enable a tenant to obtain compensation for permanent pasture laid down without the landlord's consent, notwithstanding that "laying down of permanent pasture" is included as being an improvement for which the landlord's consent is required.

(4) The buildings for the repairs of which a claim may be made under item 27 must be, it is to be observed, "buildings necessary for the proper cultivation or working of the holding," which would, it is presumed, include the ordinary barns, stables, cattle-sheds, pig-styes, &c., and probably also the farm-house, but not any buildings which have ceased to be used. Buildings which the tenant by his agreement or lease is himself under an obligation to repair, do not fall within this item at all.

SECOND SCHEDULE.

Sect. 13.

Rules as to Arbitration.

Appointment of Arbitrator.

1. A person agreed upon between the parties, or in default of agreement nominated by the Board on the application in writing of either of the parties, shall be appointed arbitrator. 1900, Sched. 2. 1906, s. 1 (3).

2. If a person appointed arbitrator dies, or is incapable of acting, or for seven days after notice from either party requiring him to act fails to act, a new arbitrator may be appointed as if no arbitrator had been appointed.

3. Neither party shall have power to revoke the appointment of the arbitrator without the consent of the other party.

4. Every appointment, notice, revocation, and consent under this part of these rules must be in writing.

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Time for Award.

5. The arbitrator shall make and sign his award within twenty-eight days of his appointment or within such longer period as the Board may (whether the time for making the award has expired or not) direct.

Removal of Arbitrator.

6. Where an arbitrator has misconducted himself the County Court may remove him (*a*).

Evidence.

7. The parties to the arbitration, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrator, on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrator all samples, books, deeds, papers, accounts, writings, and documents, within their possession or power respectively, which may be required or called for, and do all other things which during the proceedings the arbitrator may require.

8. The arbitrator shall have power to administer oaths, and to take the affirmation of parties and witnesses appearing, and witnesses shall, if the arbitrator thinks fit, be examined on oath or affirmation.

Statement of Case.

9. The arbitrator may at any stage of the proceedings, and shall if so directed by the judge of the County Court (which direction may be given on the application of either party), state in the form of a special case for the opinion of that Court any question of law arising in the course of the arbitration (*b*).

(*a*) See County Court Rules, 1909, Ord. XL. r. 4 (*post*, p. 260), and Forms 418, 419, and 420, for procedure on an application to remove an arbitrator.

(*b*) See Ord. XL. rr. 2, 3 (*post*, pp. 258, 259), and Forms 415, 416, and 417.

Award.

10. The arbitrator shall, on the application of either party, specify the amount awarded in respect of any particular improvement or any particular matter the subject of the award, and the award shall fix a day not [later than one month] (*c*) after the delivery of the award for the payment of the money awarded as compensation, costs, or otherwise, and shall be in such form as may be prescribed by the Board (*d*).

11. The award to be made by the arbitrator shall be final and binding on the parties and the persons claiming under them respectively.

12. The arbitrator may correct in an award any clerical mistake or error arising from any accidental slip or omission.

13. When an arbitrator has misconducted himself, or an arbitration or award has been improperly procured, the County Court may set the award aside (*e*).

Costs.

14. The costs of and incidental to the arbitration and award shall be in the discretion of the arbitrator, who may direct to and by whom and in what manner these costs or any part thereof are to be paid, and the costs shall be subject to taxation by the registrar of the County Court on the application of either party, but that taxation shall be subject to review by the judge of the County Court (*f*).

15. The arbitrator shall, in awarding costs, take into consideration the reasonableness or unreasonableness of the claim of either party, either in respect of amount or otherwise, and any unreasonable demand for particulars or refusal to supply particulars, and generally all the circumstances of the case, and may disallow the costs of

(*c*) Inserted by the Agriculture Act, 1920.

(*d*) See form of award prescribed by the Ministry (*post*, p. 276).

(*e*) See Ord. XL. r. 4 (*post*, p. 260), and Forms 418, 419, and 420.

(*f*) See order as to costs (*post*, p. 254), and Ord. XL. rr. 5, 6 (*post*, pp. 264, 265).

Sch. II. any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily.

Forms.

16. Any forms for proceedings in arbitrations under this Act which may be prescribed by the Board shall, if used, be sufficient (*g*).

(*g*) See the forms prescribed by the Ministry (*post*, p. 276).

Powers of Ministry of Agriculture.

An arbitration under the Acts will be partly under the control of the Ministry of Agriculture and Fisheries and partly under the control of the County Court. The Minister has power in default of agreement to appoint an arbitrator, to be selected from a panel (see Agricultural Act, 1920, s. 21). The time for making an award (twenty eight days from the appointment) may be extended by the Ministry, and they have power to prescribe forms for proceedings in arbitrations. See forms prescribed (*post*, p. 276), and also Forms 38 to 43.

Powers of County Court.

The County Court may remove an arbitrator for misconduct, and may decide any question of law stated in a special case, and may direct the statement of a special case. See Ord. XL. rr. 2 3 and 4 in Appendix II. If a party to an arbitration *bona fide* requests the arbitrator to state a case or to delay making his award until the party can apply to the Court for an order directing a case, and the arbitrator refuses to comply with either request, he is *prima facie* guilty of misconduct such as would justify the Court in setting aside the award: *Re Palmer & Co. and Hosken & Co.* (67 L. J. Q. B. 1; (1898) 1 Q. B. 131). An umpire who refused to state a special case upon a question of law unless a payment of 150*l.* was made to him to cover expenses was held guilty of misconduct: *Re Enoch and Zaretzky* (79 L. J. K. B. 363; (1910) 1 K. B. 327). An umpire or single arbitrator occupies a judicial position and is bound so far as practicable to follow legal rules, *ibid.* The wrongful admission of evidence on a material point is misconduct which will enable the award to be set aside: *Walford, Baker & Co.* v. *Macfie & Sons* (84 L. J. K. B. 2221). So too a refusal to admit material evidence: *Williams* v. *Wallis & Cox* (83 L. J. K. B. 1296; (1914) 2 K. B. 478). In *Re O'Conor and Whitlaw's Arbitration* (88 L. J. K. B. 1242) an arbitrator, who (1) took evidence in the absence of and without previous notice to a tenant, and (2) in making his award did not deal with a claim as to fixtures which was submitted to him for arbitration under the Act, was held guilty of legal misconduct and his award was set aside. Order XL. r. 4, sub-note 1 of the County Court Rules,

Setting aside of an award.

which provides that upon an application to set aside an award on the ground of misconduct of the arbitrator the arbitrator shall be made a party is not *ultra vires*; *Lendon* v. *Keen* (85 L. J. K. B. 1237; (1916) 1 K. B. 904). If an arbitrator appears and takes part in proceedings to set aside his award costs can be given against him, *ibid.* When an arbitrator has been guilty of such collusion as would entitle a party to the arbitration to bring an action against him, and the award is set aside on the ground of such misconduct, costs ought to be given against him whether he appears in the County Court or not. Where, however, an arbitrator appears but takes no active part in the litigation and no suggestion of bad faith or dishonesty is made against him the County Court Judge has no power to award costs against him, *ibid.* An appeal from the decision of a County Court Judge on an application to set aside an award lies to the High Court and not to the Court of Appeal: *Williams* v. *Wallis & Cox* (83 L. J. K. B. 1296; (1914) 2 K. B. 478). A case may be stated "at any stage of the proceedings." (Rule 9.) It has been questioned if this would enable a case to be stated after the award has been made. It might be argued that the proceedings are not concluded until payment or execution; but this would seem to be inconsistent with the dictum of Lord Halsbury, L.C., in *Tabernacle Permanent Building Society* v. *Knight* (62 L. J. Q. B. 52; (1892) A. C. 302): "I should agree that if a complete award had been made, a statute which gives the Court or a judge power at any stage of the proceedings under a reference to direct a case to be stated would not be applicable where the proceedings had come to an end by a completed award." This dictum was followed in *Re Palmer & Co. and Hosken & Co.* (67 L. J. Q. B. 1; (1898) 1 Q. B. 131): see also *Re Montgomery, Jones & Co. and Liebenthal* (78 L. J. 406). An appeal from the decision of the County Court judge on a question of law stated in a case lies to the Court of Appeal, from whose decision no appeal will lie. (Sect. 13.)

Evidence and costs.

Evidence may be required by the arbitrator to be given on oath or affirmation, though he is not obliged to so require. He has full power to deal with the costs of and incidental to the arbitration and award, and is not bound by the rules or practice of the Judges of the High Court. Therefore where the landlord claimed for dilapidations and was awarded only a small portion of the amount claimed the arbitrator may award that he shall pay the costs of both parties: *Gray* v. *Ashburton* (*Lord*) (86 L. J. K. B. 224; (1917) A. C. 26). Under the repealed section (20) relating to costs in the Agricultural Holdings Act, 1883, it was held that there was no power for the arbitrators or umpire to direct one party to pay the costs of the reference as between solicitor and client: *Re Griffiths and Morris* (64 L. J. Q. B. 386; (1895) 1 Q. B. 866). If that decision is correct,

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it would seem to apply to Rule 14 in this Schedule. The award must be made in the form prescribed by the Ministry of Agriculture and Fisheries. See the rules and forms (*post*, p. 276). It is final and cannot be appealed from.

The arbitrator.

The arbitrator should not be one who has any secret interest in the matter referred, or who may be affected by any circumstance likely to bias his mind unknown to one of the parties: *Earl* v. *Stocker* (2 Vern. 251); *Kimberley* v. *Dick* (41 L. J. Ch. 38; L. R. 13 Eq. 1). If the interest of the arbitrator is known to both parties they will be taken to have waived it: *Re Elliot and South Devon Ry. Co.* (2 De G. & S. 17). And irregularities in conducting an arbitration may be waived by the parties continuing the arbitration after they have been discovered: *Moseley* v. *Simpson* (42 L. J. Ch. 730; L. R. 16 Eq. 226).

An arbitrator cannot determine the differences between the parties in a way other than that directed by the submission: *Ross* v. *Boads* (7 L. J. Q. B. 209; 8 A. & E. 290). An arbitrator under these Acts will, following this rule, only be empowered to make a money award. An arbitrator who has made his award is at once *functus officio*; and if his award does not embrace the matters really in issue between the parties, he cannot of his own motion treat it as no award and make another: *Re Stringer and Riley Brothers' Arbitration* (70 L. J. Q. B. 19; (1901) 1 Q. B. 105). He can decide as to the existence of a trade custom: *Produce Brokers Co.* v. *Olympia Oil & Cake Co.* (85 L. J. K. B. 160; (1916) 1 A. C. 314). Under Rule 12, an arbitrator can correct clerical mistakes in an award, but he cannot alter an award already made by adding explanatory words: *Sutherland & Co.* v. *Hannevig Brothers* (90 L. J. K. B. 225; (1921) 1 K. B. 336). When an arbitrator makes a mistake merely by omission, as in making no award as to costs because he has been under a misapprehension that costs followed the event, the award may be remitted to him for re-consideration: *Re Baxters and Midland Railway* (95 L. T. 20). An arbitrator or umpire ought not to state his award in such a way as to deprive the parties of their right to challenge the amount charged by him for his services. He should not, therefore, fix a lump sum as costs, including therein his own and the arbitrators' fees: *Re Gilbert and Wright* (68 J. P. 143). In the absence of evidence to show that the fees charged by arbitrators or umpires are extortionate or unfair and unreasonable, the Court will not interfere with such charges: *Llandrindod Wells Water Co.* v. *Hawksley* (68 J. P. 242). The Agriculture Act, 1920, sect. 21, now provides for the fixing of an arbitrator's fees by the Minister of Agriculture and Fisheries or the registrar of the County Court (*see post*, p. 209).

Under the Revenue Act, 1906 (6 Edw. 7, c. 20), s. 9, a uniform duty of 10*s.* is substituted for the duties chargeable under the Stamp Act, 1891, on an award in England or Ireland, and specified under that heading in the 1st Schedule to that Act. **Schs. II.–IV.** Stamp duty.

THIRD SCHEDULE.

Sect. 42.

Improvements subject to Special Provisions in the case of Market Gardens.

(1.) Planting of standard or other fruit trees permanently set out;

(2.) Planting of fruit bushes permanently set out;

(3.) Planting of strawberry plants;

(4.) Planting of asparagus, rhubarb, and other vegetable crops which continue productive for two or more years;

(5.) Erection or enlargement of buildings for the purpose of the trade or business of a market gardener.

FOURTH SCHEDULE.

Enactments Repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
46 & 47 Vict. c. 61.	The Agricultural Holdings (England) Act, 1883.	The whole Act.
53 & 54 Vict. c. 57.	The Tenants' Compensation Act, 1890.	In section one the words "the Agricultural Holdings Act, 1883, and." Section two, except so far as relates to compensation under the Allotments and Cottage Gardens (Compensation for Crops) Act, 1887. Section three and section four.
58 & 59 Vict. c. 27.	The Market Gardeners' Compensation Act, 1895.	The whole Act.
63 & 64 Vict. c. 50.	The Agricultural Holdings Act, 1900.	The whole Act, except so far as it relates to Scotland.
6 Edw. 7, c. 56.	The Agricultural Holdings Act, 1906.	The whole Act, except so far as it relates to Scotland.
7 Edw. 7, c. 54.	The Small Holdings and Allotments Act, 1907.	Section thirty-eight.

ALLOTMENTS AND COTTAGE GARDENS COMPENSATION FOR CROPS ACT, 1887.

(50 & 51 Vict. c. 26.)

§§ 1–3. *An Act to provide Compensation to the Occupiers of Allotments and Cottage Gardens for Crops left in the Ground at the end of their Tenancies.*

[*8th August*, 1887.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

1. This Act may be cited as the Allotments and Cottage Gardens Compensation for Crops Act, 1887.

Extent of Act.

2. This Act shall not extend to Scotland or Ireland *or to the metropolis.*[1]

(1) The Agriculture Act, 1920, by sect. 11, sub-s. 5, repeals the provision in this Act that it shall not extend to the Metropolis in the case of any tenancy terminating after January 1st, 1921 (see *post* p. 192).

Commencement of Act.

3. This Act shall come into force on the first day of January, one thousand eight hundred and eighty-eight, which day is in this Act referred to as the commencement of this Act.[1]

(1) This Act is to be construed as one with the Tenants' Compensation Act, 1890 (53 & 54 Vict. c. 57), which relates to compensation to tenants for improvements when the land is under mortgage, and which, though repealed so far as it related to com-

pensation in respect of holdings to which the Agricultural Holdings (England) Act applied, still stands as regards compensation under this Act (see *ante*, pp. 54, 109). §§ 3, 4.

4. In this Act— Definitions.

"The metropolis" means the city of London and all parishes and places mentioned in Schedules A., B., and C. to the Metropolis Management Act, 1855.[1] 18 & 19 Vict. c. 120.

"Allotment" means any parcel of land of not more than two acres in extent held by a tenant under a landlord and cultivated as a garden or as a farm, or partly as a garden and partly as a farm.[2]

"Cottage garden" means an allotment attached to a cottage.

"Holding" means an allotment or cottage garden.

"Tenant" means the holder of a holding under a landlord for any term, and includes the legal personal representative of a deceased tenant.

"Landlord" means the person for the time being entitled to receive the rents and profits of any holding.

"Person" includes a body of persons and a corporation aggregate or sole.

"Contract of tenancy" means the letting of land for any term.

"Determination of tenancy" means the cessor of a contract of tenancy by effluxion of time or from any other cause.[3]

The designations of landlord and tenant shall for the purposes of this Act continue to apply to the parties to a contract of tenancy until the conclusion of any proceedings taken under this Act on the determination of a tenancy.

(1) The Metropolis Management Act, 1855, was the Act which constituted the Metropolitan Board of Works, the place of which has now been taken by the London County Council under the Local Government Act, 1888 (51 & 52 Vict. c. 41). The City of London

§ 4. and parishes and places mentioned in Schedules A, B, and C to the Metropolis Management Act, 1855, now form part of the administrative county of London.

(2) In *Cooper* v. *Pearse* (65 L. J. M. C. 95; (1896) 1 Q. B. 562), it was held that a piece of land less than two acres in extent occupied by a seedsman for the purposes of his business, and having on it vegetables, fruit trees, and flowering plants, which he sold, was not "cultivated as a garden," and was therefore not an allotment within this section. To come within the Act as a garden the holding must be "a place where fruit and vegetables are grown for food, or a place laid out for pleasure" (*per* Collins, J.).

The holding in that case would, however, it is presumed, have come within the definition of a "market garden" in the Market Gardeners' Compensation Act, 1895, now repealed, but reproduced in sect. 48 of the Agricultural Holdings Act, 1908.

An allotment comes under this Act whatever may be the nature of the tenancy, whether yearly, quarterly, or at will.

Rating of allotments.

Under the Allotments Rating Exemption Act, 1891 (54 & 55 Vict. c. 33), allotments are assessed to the general district rate in an urban district or to a separate rate levied in respect of special expenses in a rural district under the Public Health Act, 1875, in the proportion of one-fourth only of the net annual or rateable value of the land. Allotments are entitled to the benefit of the Agricultural Rates Act, 1896 (59 & 60 Vict. c. 16), and pay only one-half of the rate in the pound, payable in respect of buildings and other hereditaments.

(3) As to the various ways in which a tenancy may be determined, see note to Agricultural Holdings Act, 1908, s. 1, *ante*, p. 29.

Determination of allotment tenancy.

Under the Small Holdings and Allotments Act, 1908 (8 Edw. 7, c. 36), s. 28, a borough, urban district, or parish council, may make rules for regulating the letting of allotments provided under that Act, and it is provided that all such rules shall make provision for reasonable notice to be given to the tenant of any allotment of the determination of his tenancy. By sect. 30, sub-sect. 2, the tenancy of an allotment may be determined by one month's notice if the rent is in arrear for not less than forty days, or if it appears to the council that the tenant, not less than three months after the commencement of the tenancy, has not duly observed the rules affecting the allotment made by or in pursuance of the Act, or is resident more than one mile out of the borough, district, or parish for which the allotments are provided: "Provided that in every such case the council in default of agreement between the incoming and outgoing tenant shall on demand pay to the tenant whose tenancy is so determined any compensation due to him as an outgoing tenant, and the amount of such compensation shall be

assessed by an arbitrator appointed by the Council, or, if the tenant so elect, either by an arbitrator appointed under the Allotments and Cottage Gardens Compensation for Crops Act, 1887, or under the Agricultural Holdings Act, 1908."

By sub-sect. 3 of the same section, upon the recovery of an allotment from any tenant, the Court directing the recovery may stay delivery of possession until payment of the compensation (if any) due to the outgoing tenant has been made or secured to the satisfaction of the Court.

See Spencer's Small Holdings and Allotments Acts, pp. 55, 57, 58.

Compensation.

5. Upon the determination of the tenancy of a holding after the commencement of this Act the tenant shall be entitled notwithstanding any agreement to the contrary[1] to obtain from the landlord compensation in money for the following matters and things, that is to say :—

(a) For crops, including fruit, growing upon the holding in the ordinary course of cultivation, and for fruit trees and fruit bushes growing thereon, which have been planted by the tenant with the previous consent in writing of the landlord.[2]

(b) For labour expended upon and for manure applied to the holding since the taking of the last crop therefrom in anticipation of a future crop.

(c) For drains and for any outbuildings, pigsties, fowl-houses, or other structural improvements made by the tenant upon his holding with the written consent of his landlord.[3]

(1) The operation of this Act cannot be excluded by any agreement between the landlord and tenant.

(2) It is to be noted that, in respect of fruit trees and fruit bushes planted, and of drains, outbuildings, &c., no compensation can be obtained unless the planting or making of the improvement has been carried out with the previous consent of the landlord in writing. Strawberry plants would not, it is submitted, be considered "fruit bushes," and therefore would be the subject of compensation, notwithstanding that no consent of the landlord to the planting had been obtained.

Under the Agricultural Holdings Act, 1908, s. 42, compensation can be obtained for fruit trees and fruit bushes permanently set out without the consent of the landlord upon land agreed in writing to be let or treated as a market garden.

§§ 5–8.

Under the Agriculture Act, 1920, s. 11, compensation for disturbance is given in the case of allotment gardens (see *post* p. 191).

If the allotment has been treated as a "market garden," it is doubtful if it comes within this Act at all: see *Cooper* v. *Pearse* (65 L. J. M. C. 95; (1896) 1 Q. B. 562); and it may, anyhow, be more advantageous to the tenant to claim under the Agricultural Holdings Act, 1908, s. 42, than under the present Act.

Under the Small Holdings and Allotments Act, 1908, s. 47, sub-s. 4, a tenant of any allotment may, before the expiration of his tenancy, remove any fruit and other trees and bushes planted or acquired by him for which he has no claim for compensation.

(3) Under the Small Holdings and Allotments Act, 1908, s. 47, sub-s. 4, a tenant of any allotment may remove any tool-house, shed, green-house, fowl-house, or pigsty built or acquired by him for which he has no claim for compensation. See Spencer's Small Holdings and Allotments Act, 1908, p. 87.

Deduction from compensation on account of rent or breach of contract.

6. In the ascertainment of the amount of compensation payable to the tenant under this Act, any sum due to the landlord in respect of rent or of any breach of the contract of tenancy or wilful or negligent damage committed or permitted by the tenant shall be taken into account in reduction of the amount of compensation.

Compensation if not agreed upon to be settled by an arbitrator.

7. The landlord and tenant may agree upon the amount and time of payment of compensation to be paid under this Act. If in any case they do not so agree, the difference shall be settled by an arbitrator.

See notes on arbitration, *ante*, p. 106.

Appointment of arbitrator.

8. If the landlord and tenant concur they may, within twenty-eight days after the determination of the tenancy, jointly appoint such arbitrator. If they do not concur, such arbitrator shall be appointed in the following manner:—

(1) The landlord and tenant or either of them may apply personally or in writing to the justices of the peace, acting for the petty sessional division in which the holding is situated, in petty sessions, and such justices shall, upon the receipt of the application, appoint one of their

number not being interested in the holding, or other competent person not being interested as aforesaid, to act as such arbitrator. §§ 8–13.

(2) If before award the person so appointed dies or becomes incapable of acting, or for seven days after his appointment fails to act, the justices shall appoint in manner aforesaid another arbitrator.

Justices if practicable to appoint person to act as arbitrator without remuneration.

9. The justices shall in all cases in which it is practicable obtain the consent of the arbitrator to act without remuneration, and in any case in which it is impracticable to obtain such consent they shall direct that the arbitrator shall be paid such moderate sum as they consider will reasonably remunerate him for his time and expenses.

Time for commencement of arbitration.

10. The arbitrator shall proceed to determine any difference referred to him under this Act within seven days after his appointment.

Power for arbitrator to administer oaths.

11. The arbitrator, if he shall consider it desirable or necessary so to do, shall have power to call for the production of any document which is in the possession of either party, or which either party can produce, and which to the arbitrator seems necessary for determination of the difference referred to him, and to take the examination of the parties and witnesses on oath and to administer oaths and take affirmations, and if any person so sworn or affirming wilfully and corruptly gives false evidence he shall be guilty of perjury.

Power to proceed in absence of either party.

12. The arbitrator may proceed in the absence of either party after notice given to both parties.

Form of award and time for its delivery.

13. The award shall be in writing signed by the arbitrator, and shall be ready for delivery within fourteen days after his appointment, or within such extended time, not exceeding in the whole twenty-eight days after his appointment, as the parties may agree upon in writing.

§§ 14–18.

Costs of arbitration.

14. The costs (if any) of and attending the arbitration, including the remuneration (if any) of the arbitrator shall be borne and paid by the parties in such proportion as to the arbitrator appears just, and the award may direct the payment of the whole or any part of the aforesaid costs by the one party to the other, or may declare that no costs shall be payable.

Day for payment.

15. The award shall fix a day not sooner than fourteen days after the delivery of the award for the payment of the money awarded for compensation, costs, or otherwise.

Award to be final.

16. The award shall be final and conclusive in every case; and neither the submission to arbitration nor the award shall be made a rule of any Court, or be removable by any process into any Court.

Recovery of compensation money.

17. Where any money agreed or awarded to be paid for compensation, costs, or otherwise, is not paid within fourteen days after the time when it is agreed or awarded to be paid, it shall be recoverable upon order made by the judge of the County Court within the district of which the holding is situated, as money ordered to be paid by a County Court under its ordinary jurisdiction is recoverable.[1]

(1) As to the mode in which money ordered to be paid by a County Court is recoverable, see *ante*, p. 61.

The proceedings for recovery of compensation under this Act, whether ascertained by an award or by agreement, are regulated by Ord. XL. rr. 7 and 8 of the County Court Rules, 1909 in Appendix II. See also Forms 421 and 422.

Upon the recovery of an allotment under the Small Holdings and Allotments Act, 1908, the Court directing the recovery may stay delivery of possession until payment of compensation (if any) due to the outgoing tenant has been made or secured to the satisfaction of the Court (sect. 30, sub-sect. 3). See Spencer's Small Holdings and Allotments Acts, p. 58).

No claim to be made under the Agricul-

18. No claim for compensation shall be made under the Agricultural Holdings (England) Act, 1883, for any matter or thing in respect of which a claim for compen-

sation is made under this Act, and in any case in which the provisions of that Act and of this Act conflict the provisions of this Act shall prevail.[1] § 18. tural Holdings (England) Act for any matter or thing for which a claim is made under this Act.

([1]) The Agricultural Holdings (England) Act, 1883, is repealed by the Agricultural Holdings Act, 1908, but it is provided by sect. 49 (*b*) of that Act that references in any conveyance, lease or other document to any enactment so repealed shall have effect as if they had been references to the corresponding provisions of that Act.

THE AGRICULTURAL HOLDINGS ACT, 1913.

(2 & 3 Geo. 5, c. 21.)

An Act to remove doubts as to the effect of subsection (2) *of section forty-two of the Agricultural Holdings Act,* 1908, *and the enactments re-enacted in that subsection.*

[14th February, 1913.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

§ 1. Removal of doubts as to effect of 8 Edw. 7, c. 28, s. 42 (2), &c.

1.—(1) For removing doubts as to the effect of subsection (2) of section forty-two of the Agricultural Holdings Act, 1908, and any enactment which is re-enacted by that subsection, it is hereby declared that a tenancy from year to year under a contract of tenancy current on the first day of January, eighteen hundred and ninety-six, shall not be deemed to have been determined thereafter by virtue of any provision contained in section sixty-one of the Agricultural Holdings (England) Act, 1883, and the said subsection shall be repealed from the words " Provided that " to the end of the subsection.[1]

46 & 47 Vict. c. 61.

(2) This Act shall apply to any claim for compensation which has not before the passing of this Act been determined by any judgment or order of a court of competent jurisdiction or award or agreement, whether the improvement to which the claim relates was made or begun before

or after the commencement of the Agricultural Holdings Act, 1908. § 1.

(1) See note (6) to sect. 42 of the Agricultural Holdings Act, 1908, *ante*, p. 92. Sect. 42 of that Act by sub-sect. 2 gives a tenant whose holding was on January 1, 1896 (the date of the commencement of the Market Gardeners' Compensation Act, 1895), in use or cultivation as a market garden with the knowledge of the landlord, and who had then executed thereon, without having received previously to the execution thereof any written notice of dissent by the landlord, any improvement comprised in the Third Schedule to the Act (which comprises what may be termed market garden improvements), the same right to compensation for such improvements as if it had been agreed in writing after that date that the holding should be let or treated as a market garden. This right included compensation for improvements executed before as well as after that date, so that the effect of the enactment was retrospective. It was, however, provided that in case the tenancy was a tenancy from year to year, the compensation payable in respect of an improvement comprised in the Third Schedule should be such (if any) as could have been claimed if the Act of 1908 had not been passed. This left the question open whether the subsection extended to tenancies from year to year current on January 1, 1896, and still continuing till the date when the claim was made, as well as to leases for a term of years then current which determined after that date. The question was raised and decided in the case of *Re Kedwell and Flint & Co.* (80 L. J. K. B. 707; (1911) 1 K. B. 797), in which the Court of Appeal held on a case stated by an arbitrator that the provision in sect. 61 of the Agricultural Holdings (England) Act, 1883, that a tenancy from year to year current at the commencement of the Act should cease to be a tenancy "under a contract of tenancy current at the commencement of the Act" must be read into the Market Gardeners' Compensation Act, 1895, so as to cause a tenancy from year to year current on January 1, 1896, to be deemed for the purposes of the latter Act to continue to be a tenancy under a contract of tenancy current at that date until the first day only on which it could have been determined by notice given immediately after the said January 1, 1896, and thereafter to be deemed a contract of tenancy beginning after January 1, 1896. The result was to exclude from the benefits of sect. 42, sub-sect. 2, of the Act of 1908, all then continuing tenancies from year to year which were current on January 1, 1896, as it is obvious that any such would long since have been determinable by notice given on that date. The object and effect of the present Act is to get rid of the result of the decision,

§§ 1, 2.

in *Re Kedwell and Flint & Co.* (80 L. J. K. B. 707; (1911) 1 K. B. 797); so that now any tenant of land which was in use or cultivation as a market garden on January 1, 1896, with the knowledge of the landlord, &c., and who has continued to hold under a tenancy from year to year then current, may on the determination of his tenancy on quitting his holding obtain compensation for any of the improvements executed by him, and mentioned in the 3rd Schedule of the Act of 1908 (see *ante*, p. 109).

The question may arise whether a tenant of such land who held under a lease which was current on January 1, 1896, and has since expired, and who has continued in occupation of the same holding without any fresh agreement as tenant from year to year can claim for improvements under the provisions of sect. 42 of the Act of 1908 and this Act. So far as regards improvements executed before the expiration of the lease, he would, it is submitted, clearly have a right to compensation, and this right would not be lost by the change of tenancy; see sect. 8 of the Act of 1908, but *quaere* whether the new tenancy from year to year implied by his continuing in occupation, could be treated as being a tenancy under a contract of tenancy current on January 1, 1896. It is submitted that it could not.

Short title.

2. This Act may be cited as the Agricultural Holdings Act, 1913, and the Agricultural Holdings Act, 1908, and this Act may be cited together as the Agricultural Holdings Acts, 1908 and 1913.

THE CORN PRODUCTION ACT, 1917.

(7 & 8 Geo. V. c. 46.)

An Act for encouraging the production of Corn, and for purposes connected therewith (including provision as to Agricultural Wages and Rents).

[21st August, 1917.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Part I.

Minimum Price of Wheat and Oats.

Payments to growers where average price of wheat or oats is less than minimum.

1. If the average price for the wheat or oats of any year for which a minimum price is fixed under this Act, as ascertained for the purpose of this Part of this Act,[1] is less than the minimum price as fixed by this Act, the occupier of any land[2] on which wheat or oats have been produced in that year shall be entitled to be paid by the Board of Agriculture and Fisheries in respect of each acre on which he proves to the satisfaction of the Board that wheat or oats have been so produced, a sum equal in the case of wheat to four times, and in the case of oats to five times, the difference between the average price and the minimum price per quarter : [3]

Provided that—

(*a*) if it appears to the Board in respect of any land on which wheat or oats have been produced

§ 1.

that the wheat or oats were intermixed with any other crop, the amount payable in respect of that land shall be adjusted accordingly in such manner as the Board think proper; or[4]

(*b*) if it appears to the Board that any such land has been negligently cultivated, the Board may either withhold altogether the payments to which the occupier would otherwise have been entitled or may diminish the amount of those payments to such extent as the Board think proper to meet the circumstances of the case.[5]

([1]) The minimum prices of wheat and oats are now to be ascertained and fixed for 1921 and each subsequent year by Commissioners under sect. 2 of the Agriculture Act, 1920 (see *post* p. 164).

([2]) "The occupier of any land" for the purposes of this Part of the Act is defined in sect. 3, sub-sect. 1.

([3]) The section apparently proceeds on the assumption that four quarters of wheat and five quarters of oats per acre are a normal crop, but the right to payment of the difference is quite independent of the actual crop grown, whether smaller or larger than the assumed normal crop. It would seem, however, that *some* crop of wheat or oats must be grown as the section only applies to a case where "wheat or oats have been produced," and a farmer who has sown seed of wheat or oats which has failed entirely will not be entitled to any payment. The section speaks of "the difference between the average price and the minimum price," which taken alone would include cases where the minimum price is less than the average price, but the section is only to apply "if the average price . . . is less than the minimum price."

([4]) Clause (*a*) is apparently intended to provide for cases where two sorts of corn are grown on the same ground, one sort having been sown after the other on account of the partial failure of the first sown, or for some other reason. In such cases the amount payable is to be "adjusted accordingly in such manner as the Board (now Ministry of Agricultures and Fisheries) think proper," which may be expected to be in the proportions of the two crops, *e.g.*, in the case of a crop half wheat and half barley, the grower would receive twice (instead of four times) the difference between the excess of the minimum price per quarter of the wheat over the average price, nothing being allowed for the barley. The sub-section provides for the intermixture of wheat or oats with any

crop *other* than wheat or oats, *e.g.*, barley, rye, beans, but apparently does not provide for the cases where the crops intermixed are wheat and oats, unless the words can be construed *reddendo singula singulis*, as applying to an intermixture of wheat with any crop other than wheat and of oats with any crop other than oats. §§ 1, 2.

(5) Clause (*b*) is obviously inserted to give the Ministry a power of preventing the bounty given by the State being an encouragement to negligent cultivation, so that a farmer who, through his own carelessness or negligence, grows a poor crop may be deprived wholly or in part of the payment he would otherwise have been entitled to. The Ministry (who will doubtless be advised by competent inspectors) in such a case is made the sole judge of the questions of negligent cultivation, and the withholding or diminution of the bounty, and no appeal is given.

Minimum price and average price.

2.—(1) *The following minimum prices shall be fixed for the wheat and oats of the following years :—*[1]

Crop for Year.	*Wheat Price, per quarter.*	*Oats Price, per quarter.*
1917	60*s.*	38*s.* 6*d.*
1918 1919 1920	55*s.*	32*s.*
1921 1922	45*s.*	24*s.*

(2) The average price for the wheat or oats of any year shall for the purposes of this Part of this Act be taken to be the average price for the seven months beginning on the first day of September in that year ascertained by adding together the weekly averages of the weeks included in those seven months, and dividing the total by the number of weeks.[2]

For the purposes of this provision, the weekly averages for any week shall be taken to be the average price[2] per quarter[2] for that week of wheat or oats, as the case may be, ascertained in accordance with the Corn Returns Act, 1882.[3] 45 & 46 Vict. c. 37.

§ 2. (3) The Board of Agriculture and Fisheries shall, as soon as may be after the end of March in any year, cause the average price of wheat and oats for the preceding year, as ascertained under this section, to be published in the London Gazette.

(1) By the Agriculture Act, 1920, sections 2, sub-sect. 1 and 2 of that Act, which provide for the ascertainment of minimum prices for the year 1921 and subsequent years are substituted for the provision of sub-sect. 1 of this section which is thereby repealed.

(2) The quarter of wheat for the purposes of the Act means 480 lbs., and the quarter of oats 312 lbs. See sect. 17, sub-sect. 1 (*e*). By section 2, sub-sect. 4 of the Agriculture Act, 1920, the expression "statutory quarter" is to be substituted for the expression "quarter" wherever that expression occurs in this Act.

(3) The Corn Returns Act, 1882, provides (sect. 4) for weekly returns being made of purchases of British corn from such towns, not less than 150 and not more than 200 in number, as may from time to time be fixed by His Majesty in Council, and the average price of British corn is ascertained from these returns. By sects. 5 and 6 buyers of corn are bound to make weekly returns of their purchases, and under sect. 7 weekly summaries of the returns are made by the Board of Agriculture and Fisheries. Under sect. 8 the computation for the weekly summary is made with reference to the imperial bushel, viz., 60 lbs. for every bushel of wheat, 50lbs. for every bushel of barley, and 39 lbs. for every bushel of oats. Under sect. 9 in each week a computation of the average price during the next preceding week for each sort of British corn for the whole of the towns from which a summary is obtained is made and published in the London Gazette. The average price of any sort of British corn for any week is ascertained by adding together the total quantities of that sort of British corn appearing from the summaries of the inspectors of corn returns to have been bought during such week, and the total prices for those quantities as appearing from the summaries, and by dividing the total prices by the total quantities so ascertained. The quarterly or yearly average prices are ascertained by adding together the weekly averages of the weeks included in each quarter or year, and dividing the total by the number of weeks in such quarter or year respectively. The septennial average price is ascertained in a similar manner, and by sect. 10 the septennial average is used for ascertaining the amount of tithe rentcharge payable in each year. By sect. 18 British corn is defined as meaning "wheat, barley and oats, the produce of the United Kingdom, the Channel Islands, or the Isle of Man."

§ 3. Claims for payment.

3.—(1) The person who was, on the first day of September in the year in which the wheat or oats were produced, the occupier of the land on which they were produced[1] shall be deemed to be the occupier entitled to receive any payments under this Part of this Act :

Provided that when there has been any change in the occupation of the land on which the wheat or oats were produced, then—

(*a*) if the outgoing tenant is under any custom or otherwise entitled to harvest any wheat or oats grown on the land, the outgoing tenant shall in lieu of the incoming tenant or the landlord be entitled to receive any payments under this Part of this Act in respect of the wheat or oats ; and

(*b*) if the outgoing tenant is under any custom or otherwise entitled to receive compensation from his landlord or the incoming tenant in respect of the wheat or oats as for an away-going crop or otherwise, the right of the landlord or incoming tenant to receive payments under this Part of this Act in respect of the wheat or oats shall be taken into account in the assessment of the compensation so payable.[2]

(2) All claims for payments under this Part of this Act shall be made to and determined by the Board of Agriculture and Fisheries in accordance with regulations made under this Act, and the decision of the Board shall be final and conclusive for all purposes :

Provided that if at any time it is found that a payment has been obtained, or payment in excess of the amount properly payable has been obtained, by means of any false statement or false representation, the person to whom the payment was made shall, without prejudice to any criminal liability in respect of any false statement or false representation, be liable to pay the Board the amount of such payment or excess, and any such amount may, without prejudice to the recovery thereof as a debt due to

§ 3. the Crown, be recovered by the Board summarily as a civil debt.

(3) If for the purpose of obtaining a payment under this Part of this Act, either for himself or for any other person, any person makes any false statement or false representation, he shall be liable on summary conviction to imprisonment with or without hard labour for a term not exceeding six months, or to a fine not exceeding fifty pounds, unless he proves that he did not know and could not with reasonable diligence have ascertained that the statement or representation was false.

(1) The occupier of land on September 1st in the year in which the crop of wheat or oats is produced is the person entitled to the payments provided by the Act, whether or not he planted the crop, but subject to the proviso following in favour of outgoing tenants entitled to an away-going crop. The right to payment in no way depends upon whether the occupier on September 1st has or has not marketed the corn in respect of which he claims before March 31st following, when his claim to payment will arise.

(2) The concluding proviso of this sub-section provides for case where there has been a change in the occupation of land between the date when the crop was sown and the 1st September following in two instances :—

(i) Where under the custom of the country or the tenancy agreement or lease the outgoing tenant, whose tenancy has come to an end after the sowing of a crop and before its maturity, is allowed to enter and take away the crop called an "away-going crop." In this case he (and not the occupier of the land on September 1st) will be entitled to any payment which may be claimed under the Act after the following March 31st in respect of the land on which the away-going crop was sown.

(ii) Where under the custom or tenancy agreement or lease the outgoing tenant, whose tenancy has come to an end after the sowing and before the maturity of the crop, is not entitled himself to harvest an away-going crop, but to receive certain payment or compensation for the crop sown by him from the landlord or incoming tenant. Some such payment is common but its nature varies according to custom in different parts of the country. It is generally based on a valuation of the crop, or part of the crop, standing either with or without the straw, and is sometimes subject to a deduction in respect of the rental of the land on which the crop is grown. Where a tenant has this right the Act apparently provides that in the valuation, in addition to

the actual market value of the crop valued, the benefit conferred by the Act upon the occupier on 1st September following of obtaining payments in respect of the crop grown, if it consists of wheat or oats, shall be taken into account for the benefit of the outgoing tenant, so as to enable the latter to share in the sum to be paid to the extent to which the valuers may deem reasonable. The valuers will no doubt in assessing the amount to be allowed in this way to the outgoing tenant take into account the fact that the landlord or incoming tenant's right to payment will not accrue till after March 31st in the following year, and will make an allowance accordingly.

Part II.

Agricultural Workmen (Minimum Wage).

Minimum rate for agricultural wages.

4.—(1) Any person who employs a workman[1] in agriculture[2] shall pay wages to the workman at a rate not less than the minimum rate as fixed under this Act and applicable to the case, and if he fails to do so, shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds, and to a fine not exceeding one pound for each day on which the offence is continued after conviction therefor : [3]

Provided that such a person shall not be liable to be so convicted if he proves that he did not know and could not with reasonable diligence have ascertained that the wages paid were less than the wages required under this Act to be paid.[4]

(2) In any proceedings against an employer under this section the court may, whether there is a conviction or not, order the employer to pay, in addition to the fine, if any, such sum as appears to the court to be due to the workman employed on account of wages, the wages being calculated at the minimum rate ; but the power to order the payment of wages under this provision shall not be in derogation of any right of the workman to recover wages by any other proceedings.

(3) Any agreement for the payment of wages in contravention of this section, or for abstaining to exercise any right of enforcing the payment of wages in accordance with this section, shall be void.

§ 4. (4) The provisions of this section as to payment of wages at a minimum rate shall operate as respects able-bodied men[5] as from the commencement of this Act (although a minimum rate of wages may not have been fixed), but only so as to enable any sum which would have been payable under this section to an able-bodied man on account of wages for time-work if a minimum rate for able-bodied men had been fixed to be recovered by the workman from his employer at any time not exceeding three months after the rate is fixed :[6]

Provided that no sum shall be recoverable under this provision except in a case in which and to the extent to which the wages paid have not, in the opinion of the court, been equivalent to wages for an ordinary day's work at the rate of twenty-five shillings a week.

([1]) "Workman" includes boys, women and girls, and "employment" includes apprenticeship. See sect. 17, sub-sect. 1 (*c*), (*d*). It is provided by sect. 5, sub-sect. 2, that the Agricultural Wages Board shall fix minimum rates of wages for "workmen" employed in agriculture for time-work, and also if they think it necessary or expedient for piece-work.

([2]) See the definition of "agriculture" in sect. 17, sub-sect. 1 (*a*), which includes the use of land as grazing, meadow or pasture land, or orchard or osier land, or woodland, and for market gardens or nursery grounds. A person employed in gardens is not a workman employed in agriculture within the meaning of this subsection unless such gardens are a "market garden" as defined by sect. 48 of the Agricultural Holdings Act, 1908 (*ante*, p. 95) : *Bickerdike* v. *Lucy* (89 L. J. K. B. 558; (1920) 1 K. B. 707).

([3]) An employer is not necessarily liable to pay the minimum rate of wages week by week. Hence, where an employer hired a labourer for twelve months at a certain sum per annum with board and lodgings which gave a weekly average wage less than the minimum weekly wage fixed under the Act and an information was preferred before the expiration of the year's hiring charging that he did not pay wages to the labourer at a rate not less than the minimum wage as fixed, it was held that no offence had been committed as it could not be ascertained before the end of the year if the minimum wage had been paid or not : *Hampton* v. *Smith* (89 L. J. K. B. 413).

([4]) The Wages Board are bound under sect. 5, sub-sect. 4, to give notice of the minimum rate of wages fixed, so as to bring

them to the knowledge of the persons affected. In order to escape conviction it will be the duty of every employer to use reasonable diligence in acquainting himself with the authorised minimum rates.

(5) See the definition of "able-bodied man" in sect. 5, sub-sect. 9.

(6) It is to be noticed that the right of recovery of the difference between the actual wages paid after the commencement of the Act (August 21st, 1917) and the minimum wage as subsequently fixed is only given to "able-bodied men," and is only to be enforced "at any time not exceeding three months after the rate is fixed."

Establishment of Wages Board.

5.—(1) The Board of Agriculture and Fisheries shall, as soon as may be and after consultation with the Minister of Labour, establish an Agricultural Wages Board; and such of the provisions of the Trade Boards Act, 1909, as are set out (with modifications) in the First Schedule to this Act shall be deemed to be incorporated in this Part of this Act.

9 Edw. 7, c. 22.

(2) The Agricultural Wages Board shall fix minimum rates of wages for workmen employed in agriculture for time-work, and may also, if and so far as they think it necessary or expedient, fix minimum rates of wages for workmen employed in agriculture for piece-work.[5]

(3) Any such minimum rates may be fixed so as to apply universally to workmen employed in agriculture, or to any special class of workmen in agriculture, or to any special area, or to any special class in a special area, subject in each case to any exceptions which may be made by the Agricultural Wages Board for employment of any special character, and so as to vary according as the employment is for a day, week, month, or other period, or according to the number of working hours or the conditions of the employment, or so as to provide for a differential rate in the case of overtime: [2]

Provided that if the Agricultural Wages Board are satisfied that any workman employed or desiring to be employed on time-work to which a minimum rate fixed by the Board is applicable is affected by any mental or other infirmity or physical injury which renders him incapable of earning that minimum rate, the Board may

§ 5. grant to the workman, subject to such conditions, if any, as they prescribe, a permit exempting the employment of the workman from the provisions of this Act requiring wages to be paid at not less than the minimum rate, and while the permit is in force an employer shall not be liable to any penalty for paying wages to the workman at a rate less than the minimum rate so long as any conditions prescribed by the Board on the grant of the permit are complied with.[3]

(4) Before fixing any minimum rate of wages, the Agricultural Wages Board shall give notice of the rate which they propose to fix, and consider any objections to the rate which may be lodged with them within one month ; and the Board shall give notice of any minimum rates fixed by them in such manner as they think fit with a view to bringing the minimum rates, so far as practicable, to the knowledge of the persons affected.

(5) The Agricultural Wages Board may, if they think it expedient, cancel or vary any minimum rate fixed by them, and shall reconsider any such minimum rate if the Board of Agriculture and Fisheries direct them to do so, whether an application is made for the purpose or not ; and the provisions of this section as to notices shall apply where it is proposed to cancel or vary the minimum rate in the same manner as they apply where it is proposed to fix the minimum rate.

(6) In fixing minimum rates under this section, the Agricultural Wages Board shall, so far as practicable, secure for able-bodied men wages which, in the opinion of the Board, are adequate to promote efficiency and to enable a man in an ordinary case to maintain himself and his family in accordance with such standard of comfort as may be reasonable in relation to the nature of his occupation.[4]

(7) In fixing minimum rates for time-work under this section, the Agricultural Wages Board shall secure for able-bodied men wages which, in their opinion, are equiva-

lent to wages for an ordinary day's work at the rate of at least twenty-five shillings a week.[1] § 5.

(8) Nothing in this Part of this Act shall prejudice the operation of any agreement entered into or custom existing before the passing of this Act for the payment of wages at a rate higher than the minimum rate fixed under this Part of this Act.

(9) In this Part of this Act the expression "able-bodied man" means any male workman who is not incapable, by reason of age or mental or other infirmity or physical injury, of performing the work of a normally efficient workman.

([1]) See the provisions contained in the First Schedule to the Act for the appointment of the Wages Board and of district wages committees, whose duty is to have regard to local conditions and make recommendations to the central Agricultural Wages Board for their respective districts. See also Regulations as to the Wages Board and District Wages Committee in Appendix III. Part 2. The duties and powers of the Board extend to all employment in "agriculture" in the wide sense given to that term by sect. 17, sub-sect. 1 (*a*).

([2]) Special rates of wages have been fixed for various classes of work, so that a workman employed in a special class of work, such as a carter, waggoner, or stockman, is entitled to more than the ordinary man. Rates for overtime have also been fixed, and the Board has the power of assessing the value of any allowances made to the workman which may fairly be reckoned as part of his wages. (See sect. 12, sub-sect. 1 (*b*), as to benefits or advantages which may be reckoned in lieu of payment in cash.) If the contract of employment is for the year it would appear that extra payments for special work, such as harvest or lambing money, may be taken into account as making up the authorised minimum wage for the year (see *Hampton* v. *Smith*, *ante* p. 128), but where the employment is by the day, week or month it would not appear to be possible to bring such extra payments into account, except in respect of the day, week or month in which the extra money is in fact earned.

([3]) An employer cannot safely employ a "workman" (*i.e.* man, woman, girl or boy) who through any mental or physical defect is incapable of doing work which would justify payment of the full minimum wage applicable to him or her, and pay him or her less than the authorised minimum wages, unless the workman has obtained a permit for such employment from the Wages

§§ 5, 6. Board or District Wages Committee subject to such conditions as may be fixed. In the absence of such a permit the employer will be liable to prosecution, under sect. 4, sub-sect. 1, if he pays less than the minimum rate of wages.

(4) This sub-section places a considerable onus on the Wages Board, although the duty of the Board is qualified by the words "so far as practicable," and "in an ordinary case." It is obvious that the sum adequate to promote efficiency in the workman and to enable him to maintain himself and his family in accordance with a reasonable standard of comfort will be very difficult of ascertainment, and may be subject to variations in accordance with individual ideas, and the number and ages of the workman's family, and local conditions. It is probably inserted as a rough guide to the Board and without contemplating the possibility of any exact adjustment of the wages to the standard required. Benefits or advantages allowed to a labourer, such as the use of a cottage or fuel or food, if not prohibited by law, as is the case of intoxicating liquors under the Truck Act, 1831 (1 & 2 Will. 4, c. 37), and the Truck Amendment Act, 1887 (50 & 51 Vict. c. 46), may be reckoned as part of his wages at the value fixed by the Agricultural Wages Board, or such reckoning may be limited or prohibited by the Board. See sect. 12, sub-sect. 1 (*b*).

(5) The sum of 25*s.* a week for an "able-bodied man" is secured in any event as the minimum wage, but it may be fixed at any higher figure that the Wages Board think fit and is in all cases at the present time much higher.

Complaints as to inadequate payment for piece-work where no minimum piece-rate has been fixed.

6. Any workman employed in agriculture on piece-work for which no minimum piece-rate has been fixed, or any person authorised by such a workman, may complain to the Agricultural Wages Board that the piece-rate of wages paid to the workmen for that work is such a rate as would yield in the circumstances of the case to an ordinary workman a less amount of wages than the minimum time-rate applicable in the case of that workman, and the Board may on any such complaint direct that the employer shall pay to the workman such additional sum by way of wages for any piece-work done by him at that piece-rate at any time within fourteen days before the date of complaint, or at any time after the date of complaint and before the decision of the Board thereon, as in the opinion of the Board represents the

difference between the amount which would have been paid if the work had been done by an ordinary workman at the minimum time-rate and the amount actually received by the workman making the complaint, and any sum so directed to be paid may be recovered by the workman from the employer summarily as a civil debt.[1] §§ 6, 7.

(1) Under sect. 5, sub-sect. 2, a minimum rate of wages may be fixed for piece-work if thought necessary or expedient by the Wages Board. Piece-work differs so much in its circumstances that it may be thought generally better to leave the adjustment of payment therefor to agreement between the employer and workman. It is generally, of course, fixed at a rate which secures to the workman remuneration at a rate rather higher than the ordinary wage for time-work. If the workman is dissatisfied with the rate paid for any piece-work, when not fixed by the Board, on the ground that it yields a less amount, in the circumstances of the case to an ordinary workman, than the minimum time-rate to which he is entitled for time-work, he or "any person authorised by him" may complain of its inadequacy to the Wages Board, who may direct that the employer shall pay to him such additional sum for piece-work done by him within fourteen days before the date of his complaint, or at any time after that date, as will represent the difference between the amount which would have been paid if the work had been done by an ordinary workman at the minimum time-rate and the amount actually received by the workman complaining. It is to be noticed that no such extra payment can be obtained for piece-work done more than fourteen days before the date of complaint, and the section would appear not to apply unless and until a minimum rate has been fixed for time-work. It would seem that a slack or incompetent workman who may succeed in showing that the piece-rate for certain work is less than such a rate would yield to an ordinary workman doing that work at the minimum time-rate may under this sub-section receive more than he fairly ought to do, for he will be entitled to be paid the difference between the amount which would have been paid to the ordinary workman at the minimum time-rate and the amount actually received by the complaining workman for the piece-work done by him, which, owing to his own slackness or incompetency, may have been less than the ordinary workman would have earned.

Complaints as to infraction of mini-

7. Any workman employed in agriculture, or any person authorised by a workman so employed, may complain to the Agricultural Wages Board that the wages

§§ 7, 8. paid to the workman by any employer are at a rate less than the minimum rate applicable in the case of that workman, and the Board shall consider the matter, and may, if they think fit, take any proceedings under this Act on behalf of the workman.[1]

mum rates of wages.

(1) This section enables a workman or any person authorised by him to invoke the aid of the Wages Board in taking proceedings against an employer instead of himself taking such proceedings. But it has been held in a County Court that this right of complaint to the Wages Board does not oust the jurisdiction of the County Court in a claim by a labourer for wages alleged to be wrongfully withheld by an employer: *Brown* v. *Banham* (8 Law Journal, C.C. Rep. 28). The expression "or any person authorised by a workman" in this and the preceding section appear to contemplate the making of complaints or representations to the Wages Board by trade union officials. Proceedings on behalf of a workman may be instituted by the Agricultural Wages Board in the name of their inspector against an employer for payment of less than the minimum wage upon the initiative of the Board irrespective and in the absence of any personal complaint by the workman himself to the Board: *Savill* v. *Harben* (89 L. J. R. B. 47). On the other hand, the aggrieved workman himself may be a proper complainant himself to the Justices without any previous complaint by him to the Wages Board: *Buchanan* v. *Osborne* ((1919) 2 Ir. R. 52).

Part III.

Restriction on Raising of Agricultural Rents.

Rents not to be raised in consequence of Act.

8.—(1) The rent payable under any contract of tenancy made or varied[1] after the passing of this Act in respect of an agricultural holding shall, notwithstanding any agreement to the contrary, not exceed such rent as could have been obtained if Part I. of this Act had not been in force,[2] and any question as to whether the rent payable under such a contract is in excess of the rent permitted by this section or as to the amount of the excess shall be determined by a single arbitrator under and in accordance with the provisions of the Second Schedule to the Agricultural Holdings Act, 1908:[3]

8 Edw. 7, c. 28.

Provided that the rent payable under a contract of

tenancy shall not be deemed to be in excess of that permitted under this section unless notice in writing requiring the question to be referred to arbitration has been served on the landlord within one year from the commencement or variation of the tenancy.[4] § 8.

(2) If on any such arbitration it is determined that the rent payable under the contract of tenancy is in excess of the amount permitted under this section, the contract shall, as from the commencement or variation of the tenancy, have effect as if the rent payable under the contract was reduced by the amount of the excess.[3]

(3) This section shall not affect any proceedings by a landlord for enforcing payment of any rent except so far as the rent has before the commencement of such proceedings been determined in manner hereinbefore provided to be in excess of the rent permitted by this section, but any rent in excess of the rent permitted by this section which is paid or recovered before the award of the arbitrator shall be recoverable by the tenant from the landlord by way of deduction from rent or otherwise.[5]

(4) In this section expressions have the same meaning as in the Agricultural Holdings Act, 1908.[6]

([1]) This section applies to any case of a contract of tenancy "made or varied" after the passing of the Act in respect of an agricultural tenancy. It has no application to existing tenancies which are not varied. Nor does it apply unless an increase of rent has been agreed upon. A tenant upon whom notice to quit has been served in order to secure an increase of rent, and who quits rather than submit to the increase, has no remedy under this Act, but unless the landlord has demanded arbitration as to the rent under sect. 10, sub-sec. 1 (*e*) of the Agriculture Act, 1920, and the tenant has refused or failed to agree to the demand he will have a claim for compensation for disturbance under that section. Variation of a contract of tenancy may be by way of increase of rent or alteration of the obligations either of landlord or tenant but it is only in the former case that questions are likely to arise under this section. In the case of any new contract of tenancy and any variation of an existing contract the landlord must be prepared to justify before an arbitrator the rent reserved as not exceeding the amount which might have been obtained if the State

§ 8. had not given to growers of corn the right to claim the minimum prices for wheat and oats conferred by Part I. of this Act.

(2) Where an increase of rent is demanded while the average prices of corn are in excess of the minimum prices fixed by sect. 2, sub-sect. 1, *prima facie* the section would not apply; but if the increase is found by the arbitrator, to whom the question is referred, to have been so demanded in view not merely of existing prices but also of the guarantee of minimum prices in future years, the case would seem to fall within this section, and the increase would be unlawful.

(3) Any questions as to whether the provisions of this sub-section are applicable so as to make an increase of rent unlawful in whole or in part are to be referred to a single arbitrator under and in accordance with the provisions of the Second Schedule to the Agricultural Holdings Act, 1908 (*ante*, p. 103). The arbitrator may state a case for the opinion of a judge of the County Court on any question of law arising in the course of the arbitration. Apparently the arbitrator will be at liberty to find that part only of the increase of rent demanded is in excess of what would have been obtained if Part I. of the Act had not been in force, and that the increase is only unlawful in part, the rest of the increase being good. See also sub-sect. 2, which provides for the reduction of the rent to the extent of the excess only.

(4) In order that a tenant may avail himself of this right of questioning any increase of rent he must, it is to be noted, give notice in writing requiring the question to be referred to arbitration within one year from the commencement or variation of the tenancy under which the increased rent would become payable but for this section.

(5) Until the award of an arbitrator the landlord may enforce payment of any rent agreed to in the ordinary way and by the ordinary means, *e.g.*, action or distress, but when once the award has been made any rent found to be in excess of the permissible amount, and already paid, may be recovered by the tenant by deduction from rent thereafter becoming payable or by action.

(6) The expressions used in this section are to have the meaning given to them by the Agricultural Holdings Act, 1908. See sect. 48, sub-sect. 1, of that Act, which defines a "contract of tenancy" as "a letting of or agreement for letting land for a term of years, or for lives, or for lives and years, or from year to year"; and "landlord" as "any person for the time being entitled to receive the rents and profits of any land"; and "tenant" as "the holder of land under a contract of tenancy," and as including "the executors, administrators, assigns, guardian, committee of the estate, or trustee in bankruptcy of a tenant, or other

person deriving title from a tenant." There is no definition in the Agricultural Holdings Act, 1908, of an agricultural holding, though "holding" is defined in sect. 48, sub-sect. 1, as "any parcel of land held by a tenant, which is either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral, or in whole or in part cultivated as a market-garden, and which is not let to the tenant during his continuance in any office, appointment, or employment held under the landlord." But see sect. 17, sub-sect. 1, of this Act for a definition of "agriculture." §§ 8, 9.

Part IV.

Power to Enforce proper Cultivation.

Power to enforce proper cultivation.

9.—(1) *The Board of Agriculture and Fisheries, if in any case they are of opinion—*

(a) *that any land is not being cultivated according to the rules of good husbandry; or*

(b) *that for the purpose of increasing in the national interest the production of food the mode of cultivating any land or the use to which any land is being put should be changed;*

may serve notice on the occupier of the land requiring him to cultivate the land in accordance with such directions as the Board may give for securing that the cultivation shall be according to the rules of good husbandry or for securing the necessary change in the mode of cultivating or in the use of the land, as the case may be, and where compliance with any such directions, in the case of land in the occupation of a tenant, involves any breach of or non-compliance with any covenant or condition of the contract of tenancy, the Board may in the same or any subsequent notice so served direct that any such covenant or condition, so far as it interferes with compliance with such directions, shall be suspended, and may provide for securing to the landlord such payments or other benefits (if any) as the Board think just on account of any profit or benefit derived or expected to be derived by the tenant by reason of the suspension of the covenant or condition, and any such provision of the notice shall have effect as if it was contained in the contract of tenancy:

§ 9. *Provided that if any person on whom any notice is served under this section is aggrieved by the notice, he may within the prescribed time require the question whether the land has been cultivated according to the rules of good husbandry, or whether it is undesirable in the interest of food production that the change should apply to any portion of the land included in the notice, to be referred to arbitration in accordance with this Part of this Act, and where any question is so referred to arbitration no action shall be taken for enforcing the directions given by the Board until the determination of the reference or except in accordance with the terms of the award, and, where the person on whom any notice is served is a tenant, the landlord shall have the same right as the tenant of requiring any question to be referred to arbitration.*

(2) *Where any notice is served on a tenant, a copy of the notice shall at the same time be served on the landlord.*

(3) *If, in the opinion of the Board, the occupier fails to cultivate the land in accordance with directions so given, the Board, after the prescribed notice, may, if the occupier in default is a tenant, make such order as seems to them required in the circumstances, either authorising the landlord to determine the tenancy of the holding, or determining the tenancy by virtue of the order, and, if the occupier in default is not a tenant, enter on and take possession of the land, or of the holding of which it forms part, for such time, and (either themselves or by any person authorised by them) do all such things, as appear to the Board necessary or desirable for the cultivation of the land of which possession has been taken, or for adapting such land for cultivation.*

Any such order of the Board may contain such provisions as the Board think fit for adjusting the relations of landlord and tenant where the tenancy is determined; and any such provision of the order shall have effect as if it was contained in the contract of tenancy.

(4) *If, within three months after the Board have entered on any land, the person who was in occupation of the land at a time of the entry so requires, a record of the condition of the buildings, fences, gates, roads, drains, ditches, and cultiva-*

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tion of the land shall be made within three months after the date of the requisition by a person to be appointed, in default of agreement, by the President of the Surveyors' Institution; and in default of agreement, the cost of making such record shall be borne by the Board and the person so previously in occupation in equal portions.

(5) *Where the Board have entered on any land under this provision they may, after the prescribed notice, let the land, or, with the consent of the owner, any part thereof, for any term not exceeding five years on such terms and conditions as the Board think fit, and at the best rent that, having regard to such terms and conditions, can reasonably be obtained:*

Provided that—

(a) *before any contract of tenancy is executed by the Board under this provision a draft thereof shall be sent to the owner of the land and a reasonable opportunity afforded him of objecting to any provision therein; and*

(b) *a copy of the contract of tenancy shall be sent to such owner as soon as possible after its execution.*

(6) *Any notice given by the Board of Agriculture and Fisheries for the purposes of this section which directs the suspension of any covenant or condition shall be a sufficient defence to any action or other proceeding in respect of any breach of or non-compliance with the covenant or condition so far as the breach or non-compliance is authorised by the notice of suspension.*

(7) *If at any time after a contract of tenancy of any land has been created by the Board the owner of the land requires the Board to withdraw the Board shall so withdraw as soon as reasonably may be.*

(8) *When the Board at any time withdraw from possession of any land of which they have taken possession under this section—*

(*a*) *they shall before withdrawing (except where the withdrawal is required by the owner of the land) give the prescribed notice in writing of their intention*

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to the person then entitled to resume occupation of the land, and such notice shall be given not less than three months previously to the withdrawal by the Board, and shall expire on one of the half-yearly days customary in the district where the land is situate; and

(b) *they may recover from the person then entitled to resume occupation of the land such amount as represents the value to him of all acts of cultivation or adaptation for cultivation executed by the Board; and*

(c) *the land shall be subject to any tenancy created by the Board in like manner as if the tenancy had been created by the person who would but for the tenancy have been entitled to resume occupation of the land.*

(9) *Any person who is interested in any land in respect of which any notice is served or order made under this section or of which possession is taken under this section, and who suffers any loss by reason of the exercise of the powers conferred by this section shall, if he makes a claim for the purpose before the expiration of such period, not being less than one year, after the exercise of the powers as may be prescribed by the Board, be entitled to be paid by the Board such amount or amounts by way of periodical payments or otherwise as may represent the loss.*

(10) *The amount recoverable or payable by the Board under subsection* (8) *or subsection* (9) *of this section shall be determined in each case in default of agreement by arbitration under this Part of this Act.*[1]

(1) This section is repealed by the Agriculture Act, 1920, and sect. 4 of that Act now contains the powers of the Ministry of Agriculture and Fisheries to enforce the proper cultivation of land (see *post*, p. 167). The Corn Production (Amendment) Act, 1918, is also repealed, but the right of claiming compensation given by sub-section 9 of section 9 of this Act and the Act of 1918 for losses caused by orders made or possession of land taken under the Defence of the Realm Regulations is preserved by sect. 36, sub-s. 3 of the Agriculture Act, 1920 (*post*, p. 224). As to who is entitled to claim

compensation as being a " person interested " under sub-section 9, section 9, and how such compensation should be assessed, see *Re Todd and North Riding of Yorkshire Agricultural Executive Committee* (90 L. J. K. B. 228; (1921) 1 K. B. 281). See also Regulations as to claims under sub-s. 9, (*post*, p. 302).

Protection of crops, &c. from damage by rabbits and vermin.

10.—(1) The Board of Agriculture and Fisheries may in any case where they are satisfied that crops, trees or pasturage are being damaged by reason of the failure of an occupier of land to destroy sufficiently the rabbits or vermin on the land in his occupation, after giving to the occupier and owner such opportunity of destroying the rabbits or vermin as in the opinion of the Board is reasonable, authorise in writing any person to enter on the land and kill and take the rabbits or vermin thereon, and the Board may recover from the occupier, summarily as a civil debt, the net cost incurred by the Board in connection with the action so taken.[1]

(2) Any person acting under an authority given by the Board under this section shall, if so required, produce his authority, and if any person obstructs any person so authorised in the exercise of his powers or duties under this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(3) The person entitled to kill rabbits or vermin on any common land shall for the purpose of this section be deemed to be the occupier of the land.

(1) Under the Ground Game Act, 1880 (43 & 44 Vict. c. 47), every occupier of land has, as incident to and inseparable from his occupation of the land, the right to kill and take ground game thereon concurrently with any other person who may be entitled to kill and take ground game on the same land, subject to certain limitations of his right imposed by the Act. The power given by this section extends to any case of injury to crops, trees or pasturage by rabbits or vermin, although the presence of the rabbits or vermin may be due to the default of some neighbouring occupier. For instance, A.'s crops may be injured by rabbits coming from the neighbouring wood belonging to and in the occupation of B. The Board, after calling B.'s attention to the matter, and giving him a reasonable opportunity of destroying the rabbits, may on his default authorise and pay C. to enter into B.'s wood and kill and take the rabbits therein, and they may recover from B. C.'s

§§ 10, 11. charges for the work. Nothing is said expressly as to whose property the rabbits killed and taken will be, but probably the word "taken" would authorise their retention by the killer. Ordinarily if rabbits or game are started and killed *wrongfully* by one person on the land of another they are the property of the person on whose land they are killed, and not of the captor, though the killing and taking away be one continuous act. (See *Blades* v. *Higgs* (1865), 34 L. J. C. P. 286; 11 H. L. C. 621.) It is to be observed that it is the "net cost" of destruction which will be recoverable from the occupier of the land where the rabbits or vermin are killed and taken, and it is to be presumed that the value of the rabbits killed will be set off against the cost of killing.

As to damage by winged game see sect. 10 of the Agricultural Holdings Act, 1908, *ante*, p. 46.

General provisions applicable to Part IV.

11.—(1) Arbitrations under this Part of this Act shall be before a single arbitrator under and in accordance with the provisions of the Second Schedule to the Agricultural Holdings Act, 1908: Provided that the arbitrator shall be nominated, in default of agreement, by the President of the Surveyors' Institution.[1]

(2) The Board may, with respect to any area consisting of one or more counties or county boroughs, authorise any body of persons constituted in the prescribed manner, to exercise on behalf of the Board, subject to such appeal to the Board as may be prescribed, any of the powers of the Board under this Part of this Act, and may if they think fit prescribe the procedure and the method of authentication of any notice or other instrument issued by any such body: Provided that the regulations shall provide that the body so constituted shall in the first instance consist of or comprise the persons who immediately before this Part of this Act comes into operation were acting as members of the War Agricultural Executive Committees, if any, constituted under the Defence of the Realm Regulations for the counties and county boroughs comprised in the area.[2]

(3) The powers under the Defence of the Realm regulations exercisable by the Board of Agriculture and Fisheries with a view to maintaining the food supply of the country

with respect to the matters dealt with in this Part of this Act shall cease to operate at the expiration of one year from the passing of this Act, or at the termination of the present war, whichever is the earlier, and thereupon this Part of this Act shall come into operation.[3] § 11.

(4) In this Part of this Act the expression "prescribed" means prescribed by regulations made by the Board.

(1) See note (3) to sect. 8 (*ante*, p. 136) in respect of the provisions of the Agricultural Holdings Act, 1908, as to arbitrations. As under this part of the Act the question arising will be between the Ministry of Agriculture and Fisheries and some other person it is provided that in default of agreement the arbitrator shall not be appointed by the Board, but by the President of the Surveyors' Institution. The arbitrator may state a case for the opinion of the County Court on any question of law arising in the cause of the arbitration and there is a right of appeal to the Court of Appeal. The Arbitration Act, 1889, does not apply to any arbitration under Part IV of this Act, see Agriculture Act, 1920, section 5 (*post*, p. 177).

(2) Under the Cultivation of Lands Order, 1917 (No. 3), dated March 15th, 1917, made by the Board of Agriculture and Fisheries under the Defence of the Realm Regulations, the War Agricultural Committee appointed by a county council of an administrative county were constituted the body to exercise the powers conferred on the Board of Agriculture and Fisheries by Regulation 2M with a view to maintaining the food supply of the country, and it was provided by par. 2 that the body thereby constituted should maintain an executive committee consisting of (1) members appointed by the said body, not less than four nor more than seven in number, unless the Board otherwise direct; and (2) of such additional members as the Board might appoint. County Agricultural Committees constituted under the Ministry of Agriculture and Fisheries Act, 1919 (9 & 10 Geo. 5, c. 91), section 7, have now taken the place of the War Agricultural Executive Committees, and the powers of the Ministry under the powers given by this Act have been delegated to such committees and their sub-committees, see Order of 30 December, 1920 (in Appendix III. part 2).

(3) The powers given by the Defence of the Realm Regulations to the Board of Agriculture and Fisheries with a view to maintaining the food supply of the country contained in Regulations 2L and 2M have now been brought to an end by sect. 9 of the Agriculture Act, 1920, and the powers under Part IV of this Act have come into operation (see *post*, p. 179).

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Part V.

General.

Regulations.

12.—(1) The Board of Agriculture and Fisheries shall, in addition to any special power to make regulations given to them under this Act, have power to make regulations generally for the purposes of carrying this Act into effect, and in particular—

(*a*) for prescribing the manner in which claims for payment under Part I. of this Act are to be made, and the evidence to be required in support of any such claim ; and

(*b*) for requiring the Agricultural Wages Board to define the benefits or advantages (not being benefits or advantages prohibited by law) which may be reckoned as payment of wages in lieu of payment in cash, and the value at which they are to be so reckoned, and for enabling the Agricultural Wages Board to limit or prohibit the reckoning of benefits or advantages as payment of wages in lieu of cash, and for enabling the Agricultural Wages Board, on the application of any employer or workman, to determine any question which may arise as to the value of any such benefits or advantages, or generally as to any contract of employment so far as the application of the provisions of this Act thereto is concerned ; [1] and

(*c*) for requiring the Agricultural Wages Board to define for the purposes of any differential rate for overtime the employment which is to be treated as overtime employment.[2]

(2) Any regulation made under this Act shall be laid before each House of Parliament forthwith, and, if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such regulation is

laid before it praying that the regulation may be annulled, His Majesty in Council may annul the regulation, and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder. §§ 12–14.

(1) This section deals for the first time in the Act with the question of the reckoning of benefits or advantages to a workman as part payment of wages in lieu of cash: see note (4) to sect. 5. The fixing of the value of a cottage or housing accommodation allowed to a labourer (as well as of other benefits and advantages) falls to the Agricultural Wages Board. It has been held by a County Court Judge that the value of a cottage as part payment of the minimum wage of an agricultural labourer is the weekly sum fixed by the Wages Board (3*s.* a week) whether such sum is greater or less than its real value or the rent previously agreed upon: *Brown* v. *Banham* (8 Law Journal C. C., Rep. p. 28). The provisions of the Increase of Rent and Mortgage Interest (Restrictions) Acts making in certain cases any rent in excess of the standard rent as therein defined irrecoverable do not prevent an employer who has provided a cottage for the occupation of an agricultural labourer from treating the excess of its real value over the standard rent as a benefit or advantage to the labourer under this section and the regulations made thereunder to be reckoned as payment of wages to that extent in lieu of payment in cash: *Baker* v. *Wood* (89 L. J. K. B. 344).

(2) See the regulations made by the Board of Agriculture and Fisheries under sub-sect. 1 (*b*) and (*c*) in Appendix III. Part 2.

Powers of entry and inspection.

13. Any person authorised in that behalf by the Board of Agriculture and Fisheries, or by any body of persons exercising any powers of the Board on their behalf, may, for the purpose of carrying this Act into effect, on the production (if so required) of his authority, enter on and inspect any land. The occupier shall in all such cases be served with notice of the date on which the inspection is to take place.

If any person prevents or obstructs the entry, for the purpose of this Act, upon any land of any person authorised under this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

Appointment and powers of officers.

14.—(1) The Board of Agriculture and Fisheries may appoint such officers as they think necessary for the

§§ 14, 15. purpose of investigating complaints and otherwise securing the proper observance of Part II. of this Act, and any officer so appointed shall, if the Board of Agriculture and Fisheries so determine, act under the directions of the Agricultural Wages Board.

(2) Any officer so appointed shall have power—

(*a*) to require the production of and to inspect and take copies of wages sheets or other records of wages paid to workmen employed in agriculture ; [1]

(*b*) to require the employer of any such workman to give any information which it is in his power to give with respect to the employment of the workman or the wages paid to him.

(3) If any person refuses to produce any document or give any information which any officer requires him to produce or give under this section, or produces or gives to any officer acting in the exercise of the powers given by this section, any document or information knowing the same to be false, he shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months with or without hard labour.

(1) For the definition of "agriculture" see sect. 17, sub-sect. 1 (*a*).

Power to require agricultural returns.

15.—(1) The Board of Agriculture and Fisheries may, in order to obtain such information as is necessary for the purpose of the proper exercise by the Board of their powers under this Act, by notice served on the occupier of any agricultural land or the person having the management of any such land, require him to make, within such time and in such form and to such person as the Board may prescribe, a return in writing with respect to the cultivation of that land, the crops and live stock thereon, and the owner thereof.[1]

(2) No individual return or part of a return made under this section shall be published or disclosed except for the

purposes of a prosecution or other proceedings under this Act. §§ 15, 16.

(3) If any person—

(*a*) refuses or without lawful excuse neglects to make a return under this section to the best of his knowledge and belief; or

(*b*) makes or causes to be made a return which is false in any particular; [2] or

(*c*) discloses or publishes contrary to the provisions of this section any individual return, or part of a return;

he shall be liable on summary conviction to a fine not exceeding twenty pounds, or, if the court is of opinion that the offence was committed wilfully, to imprisonment, with or without hard labour, for a period not exceeding three months.

([1]) Agricultural returns have hitherto been obtained annually by the Board of Agriculture and Fisheries by means of printed forms of inquiry sent round to occupiers of land. The making of such returns was, however, generally voluntary, but under the Defence of the Realm Regulations, Regulation 15D, an occupier of an agricultural holding might be required by any general or special order of the Army Council to give particulars as to the cultivation of the holding, the live stock thereon, and the persons employed thereon, &c. Under this section the making of returns is obligatory on notice from the Ministry of Agriculture and Fisheries. The wide meaning of "agricultural," including orchards, osier lands, woodlands and market gardens under sect. 17, subsect. 1 (*a*), must be borne in mind.

([2]) It is to be noticed that no exception is made in favour of a person making false returns inadvertently or carelessly. The penalty is imposed for a return "false in any particular." Extreme care in making returns will therefore be advisable, though it is doubtful if a conviction would, in practice, be obtained in the case of an honest mistake of the occupier making the return.

Provision of money.

16. Any expenses incurred by the Board of Agriculture and Fisheries in meeting payments under this Act, and any expenses of that Board or of any other Department or body to whom any powers or duties are entrusted under

§§ 16, 17. or in pursuance of this Act, and any expenses of the Agricultural Wages Board or any district committees thereof, including any expenses incurred with the consent of the Board of Agriculture and Fisheries by any members thereof in the performance of their duties, and any sums paid with such consent to any such members by way of compensation for loss of time, in each case, up to an amount approved by the Treasury, shall be defrayed out of moneys provided by Parliament.

Definitions, &c.

17.—(1) For the purposes of this Act—

(*a*) the expression "agriculture" includes the use of land as grazing, meadow, or pasture land, or orchard, or osier land, or woodland, or for market gardens or nursery grounds, and the expression "agricultural" shall be construed accordingly; [1] and

(*b*) the expression "cultivation" includes use for grazing, meadow, or pasture; and the expression "cultivate" has a corresponding meaning [2] and

(*c*) the expression "workmen" includes boys, women, and girls; [3] and

(*d*) The expression 'employment" means employment under a contract of service or apprenticeship, and the expressions "employ" and "employer" shall be construed accordingly; and

(*e*) the expression "quarter" means, in the case of wheat, four hundred and eighty imperial pounds, and in the case of oats three hundred and twelve imperial pounds.[4]

(2) Any notice under this Act may be served on the person to whom it is to be given either personally or by registered post.[5]

(1) The wide meaning of the words "agriculture" and "agricultural" in this Act should be noted. The operation of the Act is more extensive than that of the Agricultural Holdings

Act, 1908, which does not apply to osier land or woodland or nursery ground. Private and allotment gardens are, however, outside the Act. What is included in the term "market garden" is not quite clear, and doubtful cases may arise. The term is defined in the Agricultural Holdings Act, 1908, s. 48, sub-s. 1, as meaning "a holding cultivated, wholly or mainly, for the trade or business of market gardening," which does not go far in elucidating the expression (see *ante*, p. 97). Doubtful cases may arise where vegetables are grown partly for the use of the occupier and partly or occasionally for sale, see *Bickerdike* v. *Lucy* (89 L. J. K. B. 558; (1920) 1 K. B. 707, *ante*, p. 128). §§ 17, 18.

(2) The extension of the word "cultivation" to include use for grazing, meadow or pasture is important having regard to the powers of the Ministry of Agriculture and Fisheries as to cultivation contained in sect. 4 of the Agriculture Act, 1920.

(3) The meaning of "workmen" should be contrasted with that of "able-bodied man": see sect. 5, sub-sect. 9.

(4) The quarter of wheat or oats under this Act will be the same as under the Corn Returns Act, 1882, which by sect. 8 directs an inspector of corn returns to convert into the imperial bushel all returns to him in any other measure at the rate of sixty imperial pounds for every bushel of wheat, and thirty-nine imperial pounds for every bushel of oats. The expression "statutory quarter" is to be substituted by sect. 2, sub-sect. 4 of the Agriculture Act, 1920, for the expression "quarter" in this Act.

(5) By the Agricultural Holdings Act, 1908, sect. 45, it is provided that any notice, &c., may be served on the person to whom it is to be given either personally or by leaving it for him at his last known place of abode in England, "or by sending it through the post in a registered letter addressed to him there." In a case under that Act it is not necessary to prove actual service on the person to be served of a notice if it has been sent by registered post, as provided by the Act: see *Van Grutten* v. *Trevenen* (71 L. J. K. B. 544; (1902) 2 K. B. 82). See the further provision as to service of notices, under Part IV. of this Act, in sect. 7 of the Agriculture Act, 1920 (*post*, p. 179).

Application to Scotland and Ireland.

18.—(1) This Act shall apply to Scotland with the following modifications:—

(*a*) The Board of Agriculture for Scotland shall be substituted for the Board of Agriculture and Fisheries;

(*b*) Subsection (1) of the section of this Act relating to the establishment of a Wages Board shall not

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apply to Scotland, and in lieu thereof the provisions contained in the Second Schedule of this Act shall be deemed to be incorporated in Part II. of this Act;

8 Edw. 7, c. 64.

(*c*) The Agricultural Holdings (Scotland) Act, 1908, shall be substituted for the Agricultural Holdings Act, 1908:

Provided that where under this Act the Board of Agriculture for Scotland is a party to an arbitration, the sheriff principal of the sheriffdom in which the land affected is situate shall, in the Second Schedule to the first-mentioned Act, be substituted for the Board;

(*d*) The sheriff principal of the sheriffdom in which the land affected is situate shall be substituted for the President of the Surveyors' Institution, and an agricultural executive committee and the district thereof, shall, respectively, be substituted for a war agricultural executive committee constituted under the Defence of the Realm Regulations, and a county or county borough;

(*e*) The Edinburgh Gazette shall be substituted for the London Gazette;

(*f*) Part III. of this Act shall have effect subject to and without prejudice to the provisions of the Small Landholders (Scotland) Acts, 1886 to 1911, and in fixing the rent of a holding the Scottish Land Court shall not take into consideration the operation of Part I. or Part II. of this Act;

(*g*) The provisions of Part IV. of this Act with respect to the determination of tenancies shall not apply to land in the occupation of a landholder or a statutory small tenant under the Small Landholders (Scotland) Acts, 1886 to 1911, but the powers of entering on and taking possession of land and cultivating the land, or adapting it for

cultivation, conferred by this Act may, notwithstanding anything in Part IV. of this Act, be exercised in respect of land in such occupation; and § 18.

(*b*) Where a tenant of shootings is, or under the operation of Part IV. of this Act becomes, the only tenant of land, the owner of the land shall for the purposes of the said Part IV., if the Board of Agriculture for Scotland so by order decide, be deemed to be the occupier thereof, and the Board's power to suspend any covenant or condition of the contract of tenancy shall in such case be deemed to include a power to determine the tenancy or any such covenant or condition and to make such provisions as the Board think fit for the adjustment of the relations of landlord and tenant.

(2) This Act shall apply to Ireland with the following modifications :—

(*a*) References to the Board of Agriculture and Fisheries shall be construed as references to the Department of Agriculture and Technical Instruction for Ireland ;

(*b*) A separate Agricultural Wages Board shall be established for Ireland ; and the separate Board so established shall be substituted for the Agricultural Wages Board ; the provision as to wages at the rate of at least twenty-five shillings a week, and the provisions as to the retrospective effect of a minimum rate of wages for able-bodied men shall not apply, except that the Agricultural Wages Board for Ireland in fixing a minimum rate of wages for able-bodied men may, if they think proper, direct that the rate so fixed shall operate as from such earlier date as may be specified by them, not being a date prior to the passing of this Act, and in that event the last-mentioned provisions shall apply as respects that

§ 18.

rate with the substitution of a reference to the date so specified for the reference to the commencement of this Act;

(*c*) Where a person other than the occupier was, on the first day of September in the year in which wheat or oats were produced, entitled under a conacre agreement to the use of the land on which they were produced, that person shall be substituted for the occupier for the purpose of any payments in respect of the wheat or oats under Part I. of this Act;

(*d*) Questions and amounts requiring to be determined for the purposes of Part III. or Part IV. of this Act shall be determined by the Irish Land Commission on the application of any person interested instead of by arbitration, and the powers and jurisdiction exerciseable by the Land Commission in relation to applications under the Land Law (Ireland) Acts may be exercised by the Land Commission in relation to any applications under this provision;

(*e*) Part III. of this Act in its application to Ireland shall have effect subject and without prejudice to the provisions of the Land Law (Ireland) Acts, and, in fixing the judicial rent of a holding after the passing of this Act, the court shall not take into consideration the operation of Part I. or Part II. of this Act as respects the holding or tenant. Proceedings by way of ejectment for non-payment of rent shall be deemed to be proceedings for enforcing payment of rent within the meaning of Part III. of this Act;

(*f*) Part IV. of this Act in its application to Ireland shall have effect subject to the following further modifications:—

(i) the powers of entering on and taking possession of land and cultivating the land or otherwise dealing with it may be exercised

whether the occupier in default is or is not a tenant ;

(ii) the provisions of subsection (3) of section eleven shall not apply ; and

(iii) the provisions with respect to the determination of tenancies shall not apply ;

For the purpose of enforcing proper cultivation of land in Ireland the additional provisions set out in the Third Schedule to this Act shall have effect as if they were included in Part IV. of this Act ;

(*g*) The Dublin Gazette shall be substituted for the London Gazette.

Short title and duration.

19.—(1) This Act may be cited as the Corn Production Act, 1917.

(2) *This Act shall, except as otherwise provided, come into operation at the date of the passing of this Act and shall continue in force until the end of the year nineteen hundred and twenty-two, and no longer, unless meanwhile Parliament makes provision for the continuation thereof, but the expiration of this Act shall not affect the right to any payments under Part I. of this Act in respect of wheat and oats of that year or any previous year, or any rights, privileges, obligations, or liabilities acquired, accrued, or incurred under this Act before the date of the expiration thereof, or any penalty, forfeiture, or punishment incurred in respect of any offence committed under this Act before that date, or in respect of any statement or representation made in connection with a claim under this Act, whether the statement, representation, or claim was made before or after that date.*[1]

([1]) This sub-section is repealed by the Agriculture Act, 1920. Part IV of this Act came into operation at the commencement of the Agriculture Act, 1920 (Jan. 1, 1921), see sect. 9 of that Act.

SCHEDULES.

Sched. I.

FIRST SCHEDULE.

Sect. 5 (1).

SECTIONS 11, 12, 13, AND 17 OF THE TRADE BOARDS ACT, 1909.

Constitution, Proceedings, &c., of Wages Board.

Constitution and proceedings of the Agricultural Wages Board.

11.—(1) The Board of Agriculture and Fisheries may make regulations with respect to the constitution of the Agricultural Wages Board, which shall consist of members representing employers and members representing workmen (in this Act referred to as representative members) in equal proportions and of the appointed members.(*a*)

* * * * *

(2) Women shall be eligible as members of the Agricultural Wages Board as well as men.

(3) The representative members shall be elected or nominated by the Board of Agriculture and Fisheries or otherwise, or partly elected and partly so nominated, as may be provided by the regulations.

* * * * *

(4) The chairman of the Agricultural Wages Board shall be such one of the members as the Board of Agriculture and Fisheries may appoint, and the secretary of the Agricultural Wages Board shall be appointed by the Board of Agriculture and Fisheries.

(5) The proceedings of the Agricultural Wages Board shall not be invalidated by any vacancy in their number, or by any defect in the appointment, election or nomination of any member.

(*a*) See the Regulations made by the Board of Agriculture and Fisheries for the constitution and proceedings of the Agricultural Wages Board in Appendix III. *post*, p. 286.

(6) In order to constitute a meeting of the Agricultural Wages Board, at least one-third of the whole number of the representative members and at least one appointed member must be present. Sched. I.

(7) The Board of Agriculture and Fisheries may make regulations with respect to the proceedings and meetings of the Agricultural Wages Board, including the method of voting; but subject to the provisions of this Act and to any regulations so made the Agricultural Wages Board may regulate their proceedings in such manner as they think fit.

Establishment of district wages committees.

12.—(1) The Agricultural Wages Board may, and if so required by the Board of Agriculture and Fisheries shall, establish district wages committees consisting, subject as hereinafter provided, of persons representing employers or workers engaged in agriculture and constituted in accordance with regulations made for the purpose by the Board of Agriculture and Fisheries and acting for such area as the Agricultural Wages Board may determine.(*b*)

(2) Provision shall be made by the regulations for at least one member of the Agricultural Wages Board or other person nominated by the Board of Agriculture and Fisheries acting as a member of each district wages committee, and for the equal representation of local employers and local workmen on the committee.

* * * * *

(3) The Agricultural Wages Board may refer to a district wages committee for their report and recommendations any matter which they think it expedient so to refer, and may also, if they think fit, delegate to a district wages committee any of their powers and duties under this Act other than their power and duty to fix minimum rates of wages, and, subject to regulations made by the Board of Agriculture and Fisheries, authorise any such

(*b*) See the Regulations for the establishment and constitution of district wages committees made by the Agricultural Wages Board in Appendix III., *post*, p. 290.

Sched. I. district wages committee to delegate to a sub-committee thereof any of the powers so delegated to the committee.

(4) Where a district wages committee has been established for any area, it shall be the duty of the committee to recommend to the Agricultural Wages Board minimum rates of wages **** applicable to **** that area, and no such minimum rate of wages fixed under this Act, and no variation or cancellation of such a rate, shall have effect within that area unless either the rate or the variation or cancellation thereof, as the case may be, has been recommended by the district wages committee, or an opportunity has been given to the committee to report thereon to the Agricultural Wages Board, and the Agricultural Wages Board have considered the report (if any) made by the committee.

Appointed members of the Agricultural Wages Board.

13.—(1) The Board of Agriculture and Fisheries may appoint such number of persons (including women) as they think fit to be appointed members of the Agricultural Wages Board or to act as members of district wages committees: Provided that the number of persons so appointed shall not exceed one quarter of the total number of members of the Agricultural Wages Board or of any district wages committee.

* * * * *

Power to take and conduct proceedings.

17.—(1) Any officer appointed by the Board of Agriculture and Fisheries under this Act, and any officer of any Government Department for the time being assisting in carrying this Act into effect, shall have power in pursuance of any special or general directions of the Board of Agriculture and Fisheries to take proceedings under this Act, and the Agricultural Wages Board may also take any such proceedings in the name of any officer appointed by the Board of Agriculture and Fisheries for the time being acting under the directions of the Agricultural Wages Board in pursuance of this Act, or in the name of their secretary or any of their officers authorised by them.

(2) Any officer appointed by the Board of Agriculture and Fisheries under this Act, or any officer of any Gov-

ernment Department for the time being assisting in carrying this Act into effect, and the secretary of the Agricultural Wages Board, or any officer of the Agricultural Wages Board authorised for the purpose, may, although not a counsel or solicitor or law agent, prosecute or conduct before a court of summary jurisdiction any proceedings arising under this Act. Schs. I., II.

* * * * *

In the application of this Schedule to Ireland, references to the Board of Agriculture and Fisheries shall be construed as references to the Department of Agriculture and Technical Instruction for Ireland, and references to the Agricultural Wages Board shall be construed as references to the Agricultural Wages Board for Ireland.

SECOND SCHEDULE.

Section 18 (1) (*b*).

Constitution of Agricultural Wages Committees in Scotland.

1. The Board of Agriculture for Scotland (in this Schedule referred to as the Board) may from time to time divide Scotland into districts and combinations of districts, and fix such districts and combinations for the purposes of this Schedule.

2. Where and so long as the Board are satisfied that in any district fixed by them a representative joint committee, comprising a chairman and representatives of employers of agricultural labour and of workmen employed in agriculture in equal numbers, exists for purposes which include the fixing of minimum rates of wages for workmen employed in agriculture, the Board may recognise and certify that committee as a district wages committee for the district.

3. Where in any district, after a date to be fixed by the Board, the Board are satisfied that no representative joint committee as aforesaid exists in the district, the

Sch. II. Board may proceed to nominate a joint committee, constituted as aforesaid, for the district and the committee so nominated shall be certified by the Board as the district wages committee for the district: Provided that the Board may require any committee so nominated to demit office if at any time they are satisfied that a representative joint committee exists in the district in terms of the immediately preceding paragraph.

4. The Board shall, for the purpose of constituting a central agricultural wages committee for Scotland (hereinafter referred to as "the central committee"), combine districts so as to form five combination districts from each of which two representatives of district wages committees within the combination, one of whom shall represent employers and the other workmen, shall be elected by the district committees under a scheme prescribed by the Board. The Board shall appoint a chairman and a secretary for the central wages committee and may appoint two women as additional members thereof. The ten elected members, with the chairman and any additional members appointed by the Board, shall constitute the central committee.

5. Subject as hereinafter provided, a district wages committee shall, within its district, have the powers and duties conferred and imposed on the Agricultural Wages Board by or under this Act, except any of such powers and duties which the Board may by regulation reserve to and confer and impose on the central committee, and references in this Act to the Agricultural Wages Board shall be construed accordingly as references to district wages committees or the central committee, as the case may be.

6. Every decision of a district wages committee fixing a minimum rate of wages shall be reported to the central committee and to the Board, and if the central committee do not disallow the same within a period to be prescribed by the Board, the minimum rate so fixed shall be deemed to be the minimum rate fixed under this Act.

7. Where a district wages committee fail within a period to be prescribed by the Board to fix minimum rates of wages for time work within the district, the Board shall refer the question of fixing such rates to the central committee, and thereupon the powers and duties of the district wages committee to fix such rates shall, so far as required for the purposes of the reference, be transferred to the central committee, and any rate fixed under such a reference by the central committee after consultation with the district wages committee shall be deemed to be the minimum rate fixed under this Act.

8. Any other question within their jurisdiction under this Act on which a district wages committee fail to agree shall, if the representatives of the employers or the representatives of the workmen on the committee so request in writing, be referred to the central committee by the district wages committee for decision, and any decision by the central committee on such a reference shall be reported to the Board and shall have the like effect and validity as if it were the decision of the district wages committee.

9. The Board may by regulation prescribe the tenure of office and procedure of a district wages committee, so far as certified for the purposes of this Act, and of the central committee and its chairman and officers, and make other necessary provision for the efficient conduct of their business including provision as to sub-committees and the authentication of any notice, finding, or other instrument issued by them respectively.

THIRD SCHEDULE.

Section 18 (2) (*f*).

Additional Provisions for the Enforcement of Proper Cultivation of Land in Ireland.

1. It shall be the duty of every occupier of arable land to cultivate and maintain in cultivation a portion of the arable land held by him (in this Schedule referred to as

Sch. III.

the "holding"), not less in extent than the minimum tillage portion as prescribed by an order of the Department of Agriculture and Technical Instruction for Ireland made under this Schedule and applying to the holding for the time being: Provided that no occupier shall be required by virtue of any such order to cultivate more than one-half of the area of his holding.

2. The Department of Agriculture and Technical Instruction for Ireland (in this Schedule referred to as the "Department") may make orders for the purpose of prescribing the minimum tillage portion of holdings, and may make any such order so as to apply to all holdings throughout Ireland, or to all holdings in any area specified in the order, or to any class or classes of holdings specified in the order whether throughout Ireland or in any area so specified, subject in each case to any exceptions which may be made by or under the order, or so as to apply to any particular holding or holdings.

3. If in any year the occupier of a holding fails to cultivate the minimum tillage portion of the holding the Department, after affording him an opportunity of being heard in such manner as may be prescribed by regulations under this Act, shall ascertain how much of the minimum tillage portion he has failed without reasonable cause to cultivate, and subject to the provisions of the next following article of this Schedule shall specify in a certificate under their seal the acreage thereof and the amount which, in their opinion, ought to be paid by way of penalty in respect of such failure as aforesaid, not exceeding five pounds for each acre of the acreage specified in the certificate and not exceeding a proportionate amount for any fraction of an acre so specified.

Upon the making of the certificate the occupier shall become liable to pay to the Department on demand the amount specified therein as aforesaid, and the certificate shall be conclusive evidence of such liability.

Where there has been a change of occupiers during the

year, the amount shall be payable by the person who was occupier at the end of the year. Sch. III.

4. The Department before making any such certificate shall send a draft thereof to the occupier, and if the occupier within the prescribed time and in the prescribed manner serves a notice of objection to the draft certificate, any questions raised by the notice as to the making of the certificate or as to the particulars specified in the draft, shall be referred to a tribunal designated or constituted by or in accordance with regulations under this Act, and provision shall be made by those regulations for the hearing and determination by the tribunal of the questions so referred to them with power to postpone or stay the making of a certificate or to vary the draft certificate in such manner as seems proper, and generally for regulating the procedure on any such objection.

The certificate shall not be made whilst any objection to the draft certificate is pending before the tribunal, and effect shall be given by the Department to any rulings of the tribunal, and, where the draft certificate is varied by the tribunal, the certificate if made by the Department shall be made in accordance with the draft as so varied and not otherwise.

5. Any sum payable to the Department under this Schedule shall, irrespective of the amount, be recoverable by the Department by ordinary civil bill before the county court judge of any county in which the holding or any part thereof is situated, and the decision of the county court judge shall be final.

Any such sum, when received or recovered by the Department, shall be applied by them for the purposes of agriculture and other rural industries within or in connection with the county or counties in which the holding is situated.

6. The powers of the Department under this Schedule shall be in addition to and not in substitution for their other powers for the enforcement of proper cultivation

Sch. III.

under this Act and all such powers may be exercised concurrently.

7. No penalty by way of increase of rent or otherwise shall be incurred by any tenant under any contract of tenancy in respect of any acts of cultivation which may be necessary in order to comply with the requirements of this Schedule.

8. For the purpose of this Schedule, except where the context otherwise requires—

(*a*) the expression "cultivation" means tillage, and the expression "cultivate" has a corresponding meaning: Provided that land used for grazing, meadow, or pasture in any year shall be deemed to be cultivated in that year if it was tilled in either of the two years last preceding that year;

(*b*) the expression "prescribed" means prescribed by regulations under this Act; and

(*c*) the expression "arable" means capable of being tilled.

THE AGRICULTURE ACT, 1920.

(10 & 11 Geo. 5, c. 76.)

An Act to amend the Corn Production Act, 1917, *and the Enactments relating to Agricultural Holdings.*

[23rd December, 1920.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Part I.

Amendment of the Corn Production Act, 1917.

§ 1. Continuance of Corn Production Act, 1917. 7 & 8 Geo, 5, c. 46.

1.—(1) Subject as hereinafter provided, the provisions of the Act of 1917 shall continue in force until Parliament otherwise determines :[1]

Provided that it shall be lawful for His Majesty, on an Address presented to him by both Houses of Parliament praying that the Act of 1917 shall cease to be in force, by Order in Council to declare that that Act shall cease to be in force on the expiration of the fourth year subsequent to the year in which the Order is made.

(2) In the event of an Order in Council being made under this section, the expiration of the provisions of the Act of 1917 by virtue of the Order shall not affect the right to any payments under Part I. of that Act in respect of the wheat and oats of the year on the termination of which those provisions expire or of any previous year, or any

§§ 1, 2.

rights, privileges, obligations or liabilities acquired, accrued, or incurred under those provisions before the date on which those provisions expire, or any penalty, forfeiture, or punishment incurred in respect of any offence committed under those provisions before that date, or in respect of any statement or representation made in connection with a claim under those provisions, whether the statement, representation, or claim was made before or after that date.

(1) By the now repealed sect. 19, sub-s. 2 of the Corn Production Act, 1917, that Act was only to continue in operation until the end of the year 1922, but under this section the Act as amended by this Act will continue in force until brought to an end in the manner provided. It is to be borne in mind that by section 33 (6) references to the Act of 1917 are to be construed as referring to that Act as amended by this Act.

Amendment as to minimum price and average price.

2.—(1) The minimum prices for the wheat and oats of the year nineteen hundred and twenty-one and any subsequent year shall be such prices for a statutory quarter as correspond to the following minimum prices for the wheat and oats respectively of the year nineteen hundred and nineteen (hereinafter referred to as "the standard year") :—

Wheat, 68*s.* per customary quarter of 504 pounds.
Oats 46*s.* „ „ 336 „

and the corresponding minimum prices shall be fixed in respect of each year in accordance with the following provisions :—

(*a*) The Commissioners to be appointed under this Part of this Act shall, as soon as possible after the completion of the harvest in the year nineteen hundred and twenty-one and each subsequent year, ascertain, after consideration of any information furnished by the Minister, the Board of Agriculture for Scotland, and the Department of Agriculture and Technical Instruction for Ireland, the percentage by which the cost of

production of the wheat and oats respectively of that year is greater or less than the cost of production of the wheat and oats respectively of the standard year : § 2.

(*b*) In ascertaining the variation in the cost of production no account shall be taken of any variation of rent, except any variation that is attributable to a variation in the cost of maintenance :

(*c*) The corresponding minimum prices for the wheat and oats respectively of any year shall be such sums as are certified by the Commissioners to bear to the minimum prices for the wheat and oats respectively of the standard year the same proportion as the cost of production of the wheat and oats respectively of the year for which the prices are to be fixed bears to the cost of production of the wheat and oats respectively of the standard year.

(2) Any fraction of a penny in the average price or minimum price per statutory quarter shall be disregarded.

(3) The foregoing provisions of this section shall have effect in substitution for the provisions of subsection (1) of section two of the Act of 1917.[1]

(4) The expression "statutory quarter" shall be substituted for the expression "quarter" wherever that expression occurs in the Act of 1917.[2]

(1) Sect. 2, sub-s. 1 of the Act of 1917 is now repealed and the minimum prices for wheat and oats are henceforth ascertainable under this section. The provisions for the grower obtaining payment of the difference between the average prices and the minimum prices where the latter exceed the former are contained in sect. 1 of the Act of 1917 (*ante*, p. 121). The minimum prices for any year will depend upon the cost of production of that year as compared with the cost of production in 1919, "the standard year," when the price for a customary quarter is taken to have been 68*s.* for wheat and 46*s.* for oats, and the figure is to be adjusted to the statutory quarter in any case. How the cost of production is to be ascertained by the Commissioners is not stated, but it appears that they will have to fix upon some one figure for the whole country, although it is notorious that such cost differs considerably in various

§§ 2, 3.

parts. It will presumably depend upon the prices of labour, seed corn, manures, implements, horses, rates and taxes and other matters. Any variation of rent is not to be taken into account "except any variation that is attributable to a variation in the cost of maintenance." What is meant by "maintenance" is not clear, but presumably it refers to the cost of the upkeep of the farm which falls on the landlord. Whether any increase or decrease in rental value is attributable to a variation in such cost of maintenance or to a general rise or fall in the value of land may be a very difficult question to determine but this is only one of the many difficulties which the Commissioners will have to meet.

(2) See the definition of "quarter" in the Act of 1917, sect. 17, sub-s. 1 (e).

Appointment, remuneration, and powers of Commissioners.

3.—(1) For the purposes of this Part of this Act, there shall be three Commissioners, one of whom shall be appointed by the Minister, and the Board of Agriculture for Scotland jointly, one by the Treasury and one by the Board of Trade.

(2) There shall be paid to the Commissioners such remuneration as the Treasury may determine, and any such remuneration and the expenses of the Commissioners, up to an amount sanctioned by the Treasury, shall be defrayed out of moneys provided by Parliament.

(3) The Commissioners may, subject to any directions given by the Treasury, pay to any person requested by them to furnish particulars with respect to the subject-matter of their inquiry or to attend before them such reasonable expenses as such person shall incur in respect thereof.

(4) The Commissioners shall not, except with the consent of the person concerned, include in any report or publication made or authorised by them any information obtained by them in the course of an inquiry made by them under this section as to the business carried on by any person which is not available otherwise than through evidence given to them during the inquiry, nor shall any Commissioner or any person concerned in the inquiry, except with such consent as aforesaid, disclose any such information.

§ 4. Power to enforce proper cultivation.

4.—(1) The Minister,[1] if in any case he is of opinion after consultation with the agricultural committee[1] (if any) for the area in which the land is situate—

(*a*) that any arable or grass land not being a park,[2] garden, or pleasure ground or land adjoining a mansion house or garden attached thereto[3] and required for their protection or amenity or woodland or land cultivated for osiers, is not being cultivated according to the rules of good husbandry ; [4] or

(*b*) that the production of food on any such land as aforesaid can, in the national interest and without injuriously affecting the persons interested in the land or altering the general character of the holding,[5] be maintained or increased by the occupier by means of an improvement in the existing method of cultivation ; or

(*c*) that the occupier of such land as aforesaid has unreasonably neglected to execute thereon the necessary works of maintenance,[6] being, in the case of land occupied by a tenant, works which he is liable to execute under the conditions of his tenancy or rendered necessary by his act or default ; or

(*d*) that the owner of such land as aforesaid in the occupation of a tenant has unreasonably neglected to execute thereon the necessary works of maintenance,[6] not being works to which the preceding paragraph applies ;

may serve notice, in the case of neglect to execute the necessary works of maintenance, on the tenant or owner, as the case may be, requiring him to execute the necessary works specified in the notice within such time as may be so specified, and in any other case on the occupier of the land requiring him to cultivate the land in accordance with such directions as the Minister may give for securing that the cultivation shall be in accordance with the rules of

§ 4. good husbandry[4] or for securing the necessary improvement in the existing method of cultivation, so however as not to interfere with the discretion of the occupier as to the crops to be grown,[7] and the Minister may, in the same or any subsequent notice so served, provide for securing to the landlord such payments or other benefits (if any) as the Minister thinks just on account of any profit or benefit derived or expected to be derived by the tenant by reason of the execution by the owner of any works of maintenance, and any such provision of the notice shall have effect as if it was contained in the contract of tenancy :[8]

Provided that, if any person on whom any notice is served under this section is aggrieved by the notice, he may, within the prescribed time,[9] require the question whether the land has been cultivated according to the rules of good husbandry, or whether the production of food on the land can in the national interest be maintained or increased by the occupier by means of the required improvement in the existing method of cultivation, or whether such improvement will injuriously affect the persons interested in the land, or alter the general character of the holding, or whether the works required to be executed are necessary works of maintenance, or whether the time specified in the notice for the execution of such works is reasonable, to be referred to arbitration in accordance with Part IV. of the Act of 1917, and, where any question is so referred to arbitration, no action shall be taken for enforcing the directions given by the Minister until the determination of the reference or except in accordance with the terms of the award, and, where the person on whom any notice is served is a tenant, the landlord shall have the same right as the tenant of requiring any question to be referred to arbitration.

(2) Where any notice is served on a tenant, a copy of the notice shall, at the same time, be served on the landlord.

(3) No action shall be taken by the Minister or by the agricultural committee (if any) under subsection (1) of this section unless a full report in writing signed on behalf

§ 4.

of the Minister or of the committee, setting out in detail the matters complained of and the improvements or works required, has been served upon the owner and occupier.

(4) Where a notice has been served under this section on the owner or occupier of any land requiring him within a time specified in the notice to execute some work and that person unreasonably fails to comply with the requirements of the notice, he shall be liable, on summary conviction in respect of each offence, to a fine not exceeding twenty pounds and to a further fine not exceeding twenty shillings for every day during which the default continues after conviction :

Provided that—

(*a*) proceedings for an offence under this subsection shall not be instituted except by the Minister ; and

(*b*) the Minister shall be entitled to execute any work specified in the notice, and to recover summarily as a civil debt from the person in default the reasonable cost of executing such work in a proper and workmanlike manner, and the right to institute any such proceedings shall not be prejudiced by the fact that the Minister has executed the work specified in the notice.[10]

(5) Where a notice has been served on the owner of any land in the occupation of a tenant requiring him within a time specified in the notice to execute necessary works of maintenance[6] and the owner fails to comply with the requirements of the notice, the Minister may authorise the tenant to execute the works in a proper and workmanlike manner, and a tenant so authorised shall be entitled to execute the works accordingly, and at any time after the works have been executed to recover from the owner the costs reasonably incurred by him in so doing, in the same manner in all respects as if those costs were compensation awarded in respect of an improvement under the Act of 1908.

§ 4.

(6) A notice under this section shall not require any work to be executed within a period of less than one month from the date of the notice, unless in the opinion of the Minister it is necessary that the work should be executed within some shorter period specified in the notice.

(7) Where the Minister is of opinion, after consultation with the agricultural committee, that the owner of any agricultural estate situate wholly or partly in the area of the committee, whether the estate or any part thereof is or is not in the occupation of tenants, grossly mismanages the estate to such an extent as to prejudice materially the production of food thereon or the welfare of those who are engaged in the cultivation of the estate, the Minister may, if he thinks it necessary or desirable so to do in the national interest, and after holding such public inquiry as he thinks proper and after taking into consideration any representations made to him by the owner, by order appoint such person as he thinks fit to act as receiver and manager of the estate or any part thereof : [11]

Provided that—

(*a*) an order made under this subsection shall not, except where the person appointed by the order to act as receiver and manager of the estate is appointed to act in the place of a person previously appointed under this subsection, take effect until a period of six months has elapsed after the date on which notice of the order having been made was given to the owner of the estate, and the owner may, at any time during the said period, appeal against the order to the High Court in accordance with rules of court, and, where any such appeal is made, the order shall not take effect pending the determination of the appeal ; and

(*b*) an order made under this subsection shall not, except with the consent of the owner, extend to a mansion house, or the garden or grounds attached thereto, or to any land which at the

date of the order forms part of any park attached to and usually occupied with the mansion house, and required for the amenity or convenience of the mansion house, or to any land or buildings which are not used, or intended to be used, for agricultural purposes; and

(*c*) an order made under this subsection shall not operate to deprive any person, except with his consent, of any sporting rights over the estate which do not interfere with the production of food on the estate[12]; and

(*d*) any person appointed to act as receiver and manager of any estate under this section shall render a yearly report and statement of accounts to the owner or his agent and to the Minister; and

(*e*) the powers conferred by this subsection shall be in addition to and not in derogation of any other powers conferred on the Minister under this section.

The Minister may, by an order made under this provision, apply for the purposes of the order, with such modifications as he thinks fit, any of the provisions of section twenty-four of the Conveyancing and Law of Property Act, 1881,[13] which relates to the powers, remuneration, and duties of receivers appointed by mortgagees, and authorise the receiver and manager to exercise such other powers vested in the owner of the estate as may be specified in the order and may be reasonably necessary for the proper discharge by him of his duties as receiver and manager: 44 & 45 Vict. c. 41

Provided that the receiver and manager shall not have power to sell or create any charge upon the estate or any part thereof or to cut or sell timber or underwood thereon, except with the consent of the owner or with the approval of the High Court obtained upon an application made for the purpose in accordance with rules of court.[14]

§ 4. The owner of any estate in respect of which an order has been made under this subsection may, at any time after the expiration of three years from the date of the order, or after any change in the ownership of the estate, apply to the Minister to have the order appointing the receiver and manager revoked, and, if on any such application the Minister refuses to revoke the order, the owner may appeal against the refusal to the High Court, in accordance with rules of court.[14]

The Minister shall, on the application of a purchaser of any land subject to the provisions of an order made under this subsection, revoke the order so far as it affects that land.[15]

(8) If within one month after the Minister has, in pursuance of this section, appointed a receiver and manager in respect of any land the owner of the land so requires, a record of the condition of the buildings, fences, gates, roads, drains, ditches, and cultivation of the land shall be made within three months after the date of requisition by a person to be appointed, in default of agreement, by the President of the Surveyors' Institution ; and in default of agreement the cost of making such record shall be borne by the Minister and the owner in equal portions.

(9) For the purposes of this section, the expression "necessary works of maintenance" means such of the following works as are necessary for the proper cultivation and working of the land on which they are to be executed and are capable of being executed without prohibitive or unreasonable expense (that is to say) :—

(*a*) The maintenance and clearing of drains, embankments, and ditches ;

(*b*) The maintenance and proper repair of fences, stone walls, gates, and hedges ;

(*c*) The execution of repairs to buildings :

Provided that a notice under subsection (1) of this section requiring any person to maintain or clear any drains, embankments, or ditches shall not operate so as to impose

on that person any obligation in that behalf if and so far as the execution of the works required is rendered impossible by reason of the subsidence of any land or the blocking of outfalls which are not under the control of that person.

(10) Where the Minister is satisfied that there are injurious weeds to which this subsection applies growing upon any land, he may serve upon the occupier of the land a notice in writing requiring him to cut down or destroy the weeds in the manner and within the time specified in the notice, and, where the occupier unreasonably fails to comply with the requirements of the notice, the provisions of subsection (4) of this section shall have effect.[16]

The expression " occupier " in this subsection means, in the case of any public road, the authority by whom the road is being maintained, and, in the case of unoccupied land, the person entitled to the occupation thereof.

Regulations may be made under this Act for prescribing the injurious weeds to which this subsection is to apply.[17]

(11) The foregoing provisions of this section shall have effect in substitution for section nine of the Act of 1917.

(12) In this section the expression " owner " includes a person entitled for his life or other limited estate.

(1) The " Minister " is the Minister of Agriculture and Fisheries and the " agricultural committee for the area " is the committee established under the Ministry of Agriculture and Fisheries Act, 1919. See sect. 33 (1) (3).

(2) The word " park " in this section is doubtless not used in its strict legal meaning of ground inclosed and privileged for wild beasts of chase (*e.g.*, deer) by the King's grant or prescription but in its popular sense as in the Agricultural Rates Act, 1896, the Settled Land Act, 1890, and the Small Holdings and Allotments Act, 1908, sect. 41. See *Pease* v. *Courtney* (73 L. J. Ch. 760; (1904) 1 Ch. 503). It is defined in Murray's English Dictionary as " a large ornamental piece of ground usually comprising woodland and pasture, attached to or surrounding a country house or mansion, and used for recreation, and often for keeping deer, cattle, or sheep."

(3) The words " a mansion house or garden attached thereto " are

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to be read together and land is exempted which adjoins one or the other and is "required for their protection or amenity."

(4) As to the meaning of "rules of good husbandry" see sect. 33 (4).

(5) The Minister will have no power to direct the conversion of pasture or meadow into arable land or *vice-versa* which would be to "alter the general character of the holding."

(6) As to the meaning of "necessary works of maintenance," see sub-s. 9. It is to be noted that as against the landlord the works he may be required to execute are not confined to works which he has contracted to execute.

(7) "So however as not to interfere with the discretion of the occupier as to the crops to be grown" are very important words which must very much restrict the powers of the Minister under this section. It will prevent interference in such an important item of good cultivation as the rotation of crops or the laying down of land to grass.

(8) If the owner is required by the Minister to do "necessary works of maintenance" the Minister may by notice require the tenant to pay an increased rent for the benefit derived by the tenant from the execution of such works, and this requirement will take effect compulsorily against the tenant as if he had contracted to fulfil it. This is a strong power to put in the hands of a Government official whereunder a tenant may find himself saddled with an increased rent on account of "necessary works of maintenance" which he had never asked to have done and never in fact wanted.

(9) The "prescribed time" for appealing to arbitration is 14 days from the service of the notice or copy of the notice: see Cultivation of Lands Order, 1920, in Appendix III., p. 303. It is to be noticed that when notice is served on a tenant either the landlord or tenant may apply for an arbitration. See sect. 11 of the Act of 1917 for the provisions as to arbitration (*ante*, p. 142).

(10) Sub-s. 4 states the penalty for non-compliance with a notice under sub-s. 1. In addition to the fine the Minister may recover from the occupier or owner in default the cost of executing the work required to be done if he exercises his power of doing it himself. If the necessary works of maintenance are required to be done by an owner of land in the occupation of a tenant, the occupier may, under sub-s. 5, be authorised to do the work and recover the cost as if it were compensation awarded for an improvement under the Agricultural Holdings Act, 1908. Repairs to buildings are also included in Item 27 of Part III. of the First Schedule to the Act of 1908, and if executed by the tenant as provided by that Act the cost is recoverable as compensation on the termination of the tenancy. It is to be borne in mind that in all cases, except where

it is otherwise provided, the Minister may delegate his powers to and act through the County Agricultural Committee. See sect. 11, sub-s. 2 of Corn Production Act, 1917, and the Ministry of Agriculture and Fisheries Act, 1919, sect. 8.

([11]) The power contained in this sub-section of taking the management of an agricultural estate out of the hands of an owner who mismanages it is quite new and unprecedented, but it is fenced round with certain safeguards. In order to bring the section into operation (a) the owner must grossly mismanage the estate so as to prejudice materially (i) the production of food thereon, or (ii) the welfare of those engaged in its cultivation; (b) the Minister must think it necessary or desirable in the public interest; (c) a public inquiry must have been held; (d) the representations made by the owner must have been taken into consideration. The order, except when the person appointed is so appointed to act in the place of a person previously appointed, must not take effect until six months after notice of it is given to the owner so as to give him time to appeal to the High Court. The order will not, except with the consent of the owner, extend to a mansion house, garden, grounds or park or land "required for the amenity or convenience of the mansion house" or land or buildings not used for agricultural purposes. As to the meaning of "park," see note (1) to this section.

([12]) The sporting rights of the owner over the estate are not to be taken away without his consent so long as they do not interfere with the production of food on the estate. If they do so interfere the inference would seem to be that the owner may be deprived of them. Such a case might arise where the owner preserves game to an extent which is injurious to the food production of the estate.

([13]) Section 24 of the Conveyancing Act, 1881, confers the following powers on receivers:—

> "(3) The receiver shall have power to demand and recover all the income of the property of which he is appointed receiver, by action, distress, or otherwise, in the name either of the mortgagor or of the mortgagee, to the full extent of the estate or interest which the mortgagor could dispose of, and to give effectual receipts, accordingly, for the same.
>
> "(4) A person paying money to the receiver shall not be concerned to enquire whether any case has happened to authorise the receiver to act.
>
> * * * * *
>
> "(6) The receiver shall be entitled to retain out of any money received by him, for his remuneration, and in satisfaction of all costs, charges, and expenses incurred by him as receiver, a commission at such rate, not exceeding five per centum on the gross amount of all money received, as is

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specified in his appointment, and if no rate is so specified, then at the rate of five per centum in that gross amount, or at such higher rate as this Court thinks fit to allow, on application made by him for that purpose.

"(7) The receiver shall, if so directed in writing by the mortgagee, insure and keep insured against loss or damage by fire, out of the money received by him, any building, effects, or property comprised in the mortgage, whether affixed to the freehold or not, being of an insurable nature.

"(8) The receiver shall apply all money received by him as follows, namely:—

"(i) In discharge of all rents, taxes, rates, and outgoings whatever affecting the mortgaged property; and

"(ii) In keeping down all annual sums or other payments, and the interest on all principal sums, having priority to the mortgage in right whereof he is receiver; and

"(iii) In payment of his commission, and of the premiums on fire, life, or other insurances, if any, properly payable under the mortgage deed or under this Act, and the costs of executing necessary or proper repairs directed in writing by the mortgagee; and

"(iv) In payment of the interest accruing due in respect of any principal money due under the mortgage;

and shall pay the residue of the money received by him to the person who, but for the possession of the receiver, would have been entitled to receive the income of the mortgaged property, or who is otherwise entitled to that property."

Other powers besides the above which are vested in the owner on the estate may be conferred on a receiver and manager under this sub-section of "reasonably necessary for the discharge by him of his duties as receiver and manager." He may not however create a charge upon the estate or cost or sell timber or underwood without the consent of the owner or the approval of the High Court.

([14]) Rules of Court will no doubt be made as to the procedure on applications under this section (i) by way of appeal from the appointment of a receiver and manager, (ii) for the approval of the Court of the creation of a charge on the estate or of the cutting of timber or underwood, and (iii) on appeal from the refusal of the Minister after three years to revoke an order appointing a receiver and manager.

([15]) If the land is sold while in the hands of a receiver or manager

the purchaser will be entitled to obtain a revocation of the order taking the management out of the hands of the former owner.

([16]) It was held in *Giles* v. *Walker* (59 L. J. Q. B. 416; 24 Q. B. D. 656) that an occupier of land is under no duty towards his neighbours to cut thistles growing on his land so as to prevent them from seeding and the seeds being blown across to and damaging his neighbours' land. Under this sub-section there is power to compel an occupier to destroy thistles or other injurious weeds so as to prevent his negligence from injuring his neighbours.

([17]) For Regulations under this sub-s. in Appendix III., p. 306.

Arbitrations under the Corn Production Act, 1917.

5.—(1) If in any arbitration under Part IV. of the Act of 1917 the arbitrator states a case for the opinion of the county court on any question of law, the opinion of the court on any question so stated shall be final unless within the time and in accordance with the conditions prescribed by rules of the Supreme Court either party appeals to the Court of Appeal, from whose decision no appeal shall lie, except with leave of that Court.[1]

52 & 53 Vict. c. 49.

(2) The Arbitration Act, 1889, shall not apply to any arbitration under Part IV. of the Act of 1917.[2]

([1]) This sub-section is inserted to remove doubts which arose under sect. 11, sub-s. 1 of the Corn Production Act, 1917, whether the provisions therein contained for arbitrations being held under and in accordance with the provisions of the Second Schedule to the Agricultural Holdings Act, 1908, incorporated the right of appeal to the Court of Appeal given by sect. 13, sub-s. 3 of that Act. It is to be noted that it gives a right of appeal with leave from the Court of Appeal to the House of Lords in respect of cases stated in an arbitration under Part IV. of the Act of 1917. In an arbitration under the Agricultural Holdings Act, 1908, the decision of the Court of Appeal is final: see Agricultural Holdings Act, 1908, sect. 13, sub-s. 3.

([2]) In *Murray* v. *Dalton* (90 L. J. K. B. 401) it was held that the Arbitration Act, 1889, applied to an arbitration under the Corn Production Act, 1917, so as to allow the High Court to remit to the arbitrator an award bad on the face of it for ambiguity or uncertainty. The application of the Act of 1889 is now excluded by this sub-section.

Establishment of wages committees in Wales.

6. Subsection (1) of section five of the Act of 1917 shall not apply to Wales, and in lieu thereof the provisions contained in the Second Schedule of the Act of 1917 shall,

§ 6. subject as hereinafter provided, apply with respect to Wales as they apply with respect to Scotland, with the substitution of the Minister of Agriculture and Fisheries for the Board of Agriculture for Scotland :

Provided that—

(1) The provisions of the said schedule with respect to combinations of districts, and paragraph (4) of the said schedule shall not apply, and there shall be constituted in accordance with a scheme to be framed by the Minister a central agricultural wages committee for Wales (in this section referred to as " the central committee ") consisting of a chairman appointed by the Minister, and of two representatives of each district wages committee (one of whom shall represent employers, and the other of whom shall represent workmen) to be elected by the district committee, and of two women to be appointed by the Minister ; and

(2) The Minister shall appoint a person to act as secretary to the central committee ; and

(3) The powers of the Agricultural Wages Board established under the Act of 1917 shall continue to be exercisable until such time as the central committee is duly constituted under this section ; and

(4) Any rate of wages fixed, or order made by the Agricultural Wages Board shall continue in force in Wales unless and until it is varied or revoked by the central committee, and any permit granted by the said Board to a workman under subsection (3) of section five of the Act of 1917 shall, in relation to the employment of that workman in Wales, have effect as if it were granted by the central committee.[1]

(1) This section establishes a central Agricultural Wages Committee for Wales instead of placing the principality under the English Agricultural Wages Board.

§§ 7–9.

Service of notices under Part IV. of Corn Production Act, 1917.

7. Every notice required to be served or given by the Minister under Part IV. of the Act of 1917, on or to the owner or occupier of any land or any landlord may either be served personally on that person or sent by post to or left at his usual place of abode in the United Kingdom, and in case any person on or to whom any such notice is to be served or given is absent from the United Kingdom and his usual place of abode in the United Kingdom cannot after diligent enquiry be found the notice may be served by sending it by post to or leaving it with any agent ordinarily receiving the rents of the land on behalf of that person or by sending a copy thereof by post to or leaving it with the occupier of the land to which the notice relates for transmission to the owner or landlord, or, if there is no such occupier, by affixing a copy thereof on some conspicuous part of that land.[1]

(1) It is to be noticed that service by registered post is not required by this section as it is under sect. 45 of the Agricultural Holdings Act, 1908. The sending of a notice by ordinary letter post appears to be sufficient, but it would of course be necessary in any disputed case to prove the posting of the letter.

Annual accounts to be furnished by agricultural committees.

8. It shall be the duty of each agricultural committee referred to in this Act to furnish annually to the Minister full accounts showing the expenditure which has been made by such committee in the carrying out of the provisions of this Part of this Act, and the Minister shall submit to Parliament the returns made by agricultural committees under this section or a sufficient abstract thereof.

Commencement of Part IV. of Corn Production Act, 1917.

8 & 9 Geo. 5, c. 36.

9. Part IV. of the Act of 1917 shall, if not in operation at the date of the commencement of this Act, come into operation on that date, and the powers continued in operation by subsection (3) of section eleven of the Act of 1917 as amended by the Corn Production (Amendment) Act, 1918, shall, if they have not previously ceased, cease on that date except in relation to any land of which the Minister is on that date in possession by himself or any

§§ 9, 10. person deriving title from him, or any land to which on that date subsection (2) of section thirty of the Land Settlement (Facilities) Act, 1919, applies.[1]

9 & 10 Geo. 5, c. 59.

([1]) By sect. 11, sub-s. 3 of the Act of 1917, Part IV. of that Act was not to come into operation until the powers of the Board of Agriculture and Fisheries under the Defence of the Realm Regulations for maintaining the food supply of the country ceased to operate, and by the Corn Production (Amendment) Act, 1918, the powers were to continue to operate until the termination of the war. Those powers were, however, by this section, brought to an end on January 1st, 1921, and Part IV. has now come into operation. There are however exceptions in respect of land at that date in the possession of the Minister or a County Agricultural Committee, or other person deriving title from him under the Regulations, and in respect of land taken under Regulation 2 L of the Defence of the Realm Regulations, to which sub-s. 2 of sect. 30 of the Land Settlement (Facilities) Act, 1919, applies. That subsection provides that when at the termination of the war a local authority is exercising powers under Regulation 2 L in respect of land of which the local authority is owner or occupier, the local authority may continue to exercise their powers in relation to that land until the expiration of two years from the termination of the war. The powers of the Board under that Regulation were delegated to the council of the administrative county of London and councils of municipal boroughs and urban districts and were used for the promotion of allotment cultivation on land taken possession of by the local authority.

Part II.

Amendment of Agricultural Holdings Acts.

Compensation for disturbance.

10.—(1) Where the tenancy of a holding terminates after the commencement of this Act by reason of a notice to quit given, after the twentieth day of May, nineteen hundred and twenty, by the landlord,[1] and in consequence of such notice the tenant quits the holding, then, unless the tenant—

(*a*) was not at the date of the notice cultivating the holding according to the rules of good husbandry ;[2] or

(*b*) had, at the date of the notice, failed to comply within

a reasonable time with any notice in writing by the landlord served on him requiring him to pay any rent due in respect of the holding or to remedy any breach being a breach which was capable of being remedied of any term or condition of the tenancy consistent with good husbandry ; [2] or

(*c*) had, at the date of the notice, materially prejudiced the interests of the landlord by committing a breach which was not capable of being remedied of any term or condition of the tenancy consistent with good husbandry ; [2] or

(*d*) was at the date of the notice a person who had become bankrupt or compounded with his creditors ; or

(*e*) has, after the commencement of this Act, refused, or within a reasonable time failed, to agree to a demand made to him in writing by the landlord for arbitration as to the rent to be paid for the holding as from the next ensuing date at which the tenancy could have been terminated by notice to quit given by the landlord at the date of the said demand ; [3] or

(*f*) had, at the date of the notice, unreasonably refused, or within a reasonable time failed, to comply with a demand made to him in writing by the landlord requiring him to execute at the expense of the landlord an agreement setting out the existing terms of the tenancy ;

and, in the case of a notice to quit given after the commencement of this Act, unless the notice to quit states that it is given for one or more of the reasons aforesaid,[4] compensation for the disturbance shall be payable by the landlord [5] to the tenant in accordance with the provisions of this section :

Provided that compensation shall not be payable under this section in any case where the landlord has made to the tenant an offer in writing to withdraw the notice to

§ 10. quit and the tenant has unreasonably refused or failed to accept the offer.[6]

(2) The landlord of a holding may at any time apply to the agricultural committee for the area in which the holding is situate for a certificate that the tenant is not cultivating the holding according to the rules of good husbandry, and, on any such application being made, the committee, after giving to the landlord and the tenant or their respective representatives an opportunity of being heard, shall, as they think proper, either grant or refuse the certificate within one month after the date of the application.

The landlord or tenant may, within seven days after the notification to him of the refusal or grant by the committee of a certificate, require the question as to whether the holding is being cultivated according to the rules of good husbandry to be referred to an arbitrator who may grant a certificate for the purpose of this subsection or revoke the certificate granted by the committee, and the award of the arbitrator shall be given within twenty-eight days of the date on which the matter is referred to him.

Subject to any such appeal, a certificate granted under this subsection shall be conclusive evidence that the holding is not being cultivated according to the rules of good husbandry.[2]

In the case of a holding situate in a county borough for which an agricultural committee has not been appointed this subsection shall have effect with the substitution of the Minister for an agricultural committee.[7]

(3) Where, after the commencement of this Act, the landlord of a holding refuses, or within a reasonable time fails to agree to, a demand made to him in writing by the tenant for arbitration as to the rent to be paid for the holding as from the next ensuing date at which the tenancy could have been terminated by notice to quit given by the tenant at the date of the said demand, and by reason of the refusal or failure the tenant exercises his power of terminating the tenancy by a notice stating that it is given

for that reason, the tenant shall be entitled to compensation in the same manner as if the tenancy had been terminated by notice to quit given by the landlord. Provided that such compensation shall not be payable if the circumstances are such that a notice to quit could have been given by the landlord for any of the reasons mentioned in paragraphs (*a*), (*b*), or (*c*) of subsection (1) of this section.[8]

(4) The provisions of this section relating to demands for arbitration as to the rent to be paid for a holding shall not apply where the demand, if made later than six months after the commencement of this Act, is so made that the increase or reduction of the rent would take effect at some time before the expiration of two years from the commencement of the tenancy of the holding or from the date on which a previous increase or reduction of the rent took effect.[9]

(5) An arbitrator, in determining for the purposes of this section what rent is properly payable in respect of a holding, shall not take into account any increase in the rental value which is due to improvements which have been executed thereon so far as they were executed wholly or partly by and at the expense of the tenant without any equivalent allowance or benefit made or given by the landlord in consideration of their execution and have not been executed by him under an obligation imposed by the terms of his contract of tenancy, or fix the rent at a higher amount than would have been properly payable if those improvements had not been so executed, and shall not fix the rent at a lower amount by reason of any dilapidation or deterioration of land or buildings made or permitted by the tenant.[10]

(6) The compensation payable under this section shall be a sum representing such loss or expense directly attributable to the quitting of the holding as the tenant may unavoidably incur upon or in connection with the sale or removal of his household goods, implements of husbandry, fixtures, farm produce or farm stock on or used in connection with the holding, and shall include any

§ 10. expenses reasonably incurred by him in the preparation of his claim for compensation (not being costs of an arbitration to determine the amount of the compensation), but for the avoidance of disputes such sum shall, for the purposes of this Act, be computed at an amount equal to one year's rent of the holding, unless it is proved that the loss and expenses so incurred exceed an amount equal to one year's rent of the holding, in which case the sum recoverable shall be such as represents the whole loss and expenses so incurred up to a maximum amount equal to two years' rent of the holding.[11]

(7) Compensation shall not be payable under this section—

(*a*) in respect of the sale of any goods, implements, fixtures, produce or stock unless the tenant has before the sale given the landlord a reasonable opportunity of making a valuation thereof ; [12] or

(*b*) unless the tenant has, not less than one month before the termination of the tenancy, given notice in writing to the landlord of his intention to make a claim for compensation under this section ; [13] or

(*c*) where the tenant with whom the contract of tenancy was made has died within three months before the date of the notice to quit ; or

(*d*) if in a case in which the tenant under section twenty-three of the Act of 1908 accepts a notice to quit part of his holding as a notice to quit the entire holding, the part of the holding affected by the notice given by the landlord, together with any other part of the holding affected by any previous notice given under that section by the landlord to the tenant, is less than one-fourth part of the original holding, or the holding as proposed to be diminished is reasonably capable of being cultivated as a separate holding, except compensation in respect of the part of the holding to which the notice to quit related ; [14] or

(*e*) where the holding was let to the tenant by a corporation carrying on a railway, dock, canal, water, or other undertaking, or by a government department or a local authority, and possession of the holding is required by the corporation, department, or authority for the purpose (not being the use of the land for agriculture [15]) for which it was acquired by the corporation, department, or authority, or appropriated under any statutory provision; or

(*f*) in the case of a permanent pasture which the landlord has been in the habit of letting annually for seasonal grazing, and which has since the fourth day of August nineteen hundred and fourteen and before the commencement of this Act been let to a tenant for a definite and limited period for cultivation as arable land, on the condition that the tenant shall, along with the last or waygoing crop, sow permanent grass seeds; or

(*g*) where a written contract of tenancy has been entered into (whether before or after the commencement of this Act) for the letting by the landlord to the tenant of a holding, which at the time of the creation of the tenancy had then been for a period of not less than twelve months in the occupation of the landlord, upon the express terms that if the landlord desires to resume that occupation before the expiration of a specified term not exceeding seven years the landlord should be entitled to give notice to quit without becoming liable to pay to the tenant any compensation for disturbance, and the landlord desires to resume occupation within the specified period, and such notice to quit has been given accordingly.[16]

(8) In any case where a tenant holds two or more holdings, whether from the same landlord or different landlords, and receives notice to quit one or more but not all of the holdings, the compensation for disturbance in

§ 10. respect of the holding or holdings shall be reduced by such amount as is shown to the satisfaction of the arbitrator to represent the reduction (if any) of the loss attributable to the notice to quit by reason of the continuance in possession by the tenant of the other holding or holdings.[17]

(9) The landlord shall, on an application made in writing after the commencement of this Act by the tenant of a holding to whom a notice to quit has been given which does not state the reasons for which it is given, furnish to the tenant within twenty-eight days after the receipt of the application a statement in writing of the reasons for the giving of the notice, and, if he fails unreasonably so to do, compensation shall be payable under this section as if the notice to quit had not been given for a reason specified in subsection (1) of this section.

(10) If any question arises as to whether compensation is payable under this section or as to the amount payable by way of compensation under this section, the question shall, in default of agreement, be determined by arbitration under the Act of 1908.

(11) The expression "holding" in this section shall not include any land which forms part of any park, garden, or pleasure ground attached to and usually occupied with the mansion house, or any land adjoining the mansion house which is required for its protection or amenity, and the compensation for disturbance payable in respect of a notice to quit given in respect of any such land shall be such compensation (if any) as would have been payable under section eleven of the Act of 1908 if this Act had not been passed.[18]

(12) Compensation payable under this section shall be in addition to any compensation to which the tenant may be entitled in respect of improvements, and shall be recoverable in the same manner as such compensation and be payable notwithstanding any agreement to the contrary.[19]

(1) This important section which deals with the tenant's right to compensation for disturbance and provides for arbitration as to the

rent of agricultural holdings is substituted for sect. 11 of the Act of 1908, and it will no longer be necessary as under that section in order that a tenant may obtain compensation for disturbance to show that the tenancy was terminated by a notice to quit given without "good and sufficient cause, and for reasons inconsistent with good estate management," and cases such as *Brown* v. *Mitchell* ((1910) S. C. 369) and *Re Bonnett and Fowler* (82 L. J. K. B. 713; (1913) 2 K. B. 537) on the effect of these words are no longer of importance. This section applies in the case of any notice to quit given by a landlord after May 20, 1920. In the case of notices given previously and not expired at the time of commencement of this Act, the tenant's right (if any) to compensation for disturbance must depend on the repealed section, his right under which appears to be preserved by section 36, sub-s. 3 of this Act.

(2) The "rules of good husbandry" are defined in sect. 33 (1). Whether or not the holding is being cultivated according to the rules of good husbandry must be a question of fact in each case, but if the certificate of an agricultural committee for the district is obtained by the landlord under sub-s. 2 this will be conclusive evidence on the point and will avoid the question being disputed. It is not every breach of a term or condition of the tenancy which will deprive a tenant of his right to compensation for disturbance if the landlord gives notice to quit in consequence. The terms or conditions broken must be consistent with good husbandry and (a) notice must have been served on the tenant to remedy the breach and not complied with within a reasonable time (*e.g.*, neglect to repair fences or clean out ditches or to destroy noxious weeds), or (b) the breach must be not capable of being remedied (*e.g.*, the ploughing up of grass land which could not be restored for many years, or the felling of trees).

(3) Clause (e) coupled with sub-section 3 makes it necessary that any demand for an increase or reduction of rent where not mutually agreed upon shall be referred to arbitration under the Act of 1908, except in the cases excepted by sub-sect. 4. The alteration of rent demanded to come within these clauses must date from the next ensuing date at which the tenancy could have been terminated by notice to quit given at the date of the demand. The penalties for refusing to submit the question to arbitration are, in the case of a refusing tenant, that if the tenancy is in consequence terminated by the landlord he will lose his right to compensation for disturbance, and in the case of a refusing landlord that if the tenancy is in consequence terminated by notice to quit from the tenant he will be liable to pay compensation for disturbance which in other cases is only payable when the notice to quit comes from the landlord. See Forms 9, 10, and Agriculture (Amendment) Act, 1921, sect. 1, sub-s. 1, *post* p. 228.

§ 10.

(4) In order to avoid liability to compensation for disturbance where notice to quit has been given after the commencement of the Act for any of the reasons (a), (b), (c), (d), (e) or (f) it will be not only necessary to be prepared to prove the existence of the reason but also to state the reason in the notice to quit. If not so stated the landlord will be unable to set up the reason on an answer to the tenant's claim for compensation for disturbance. In the case of a notice given after the 20th May, 1920, but before the commencement of the Act, the reasons for giving it must be stated if so required by the tenant within 28 days after the receipt of the application: see sub-s. 9, and see Form 14.

(5) The landlord, *i.e.*, the person entitled to receive the rents and profits of the land on the determination of the tenancy, and not the landlord who gave the notice to quit if that is a different person, will be liable to pay the compensation: *Bradshaw* v. *Bird* (90 L. J. K. B. 221; (1920) 3 K. B. 144).

(6) Payment of compensation for disturbance may also be avoided if the landlord offers in writing to withdraw his notice to quit and the tenant unreasonably refuses to accept the offer. It is not stated if the offer to withdraw by the landlord must be unconditional. It is submitted that the withdrawal might be offered conditionally on the tenant complying with some reasonable requirement of the landlord and would then defeat the tenant's claim for compensation for disturbance if unreasonably refused by him.

(7) Any landlord who proposes to serve notice on a tenant for non-cultivation of his holding according to the rules of good husbandry will be well advised to apply under sub-sect. 2 to his county agricultural committee for a certificate to that effect, as such a certificate will be "conclusive evidence" of the fact. The certificate need not necessarily be obtained before the notice to quit is given but must relate to the condition of the holding at that time, which is the crucial date under sub-sect. 1 (a). If there is an appeal from the finding of the agricultural committee to an arbitrator, the award must be given within 28 days of the date of the reference to him without apparently any power of obtaining an extension of time as in other cases of arbitration under the Act of 1908 and this Act

(8) As mentioned above in note (3) this clause enables a tenant, who demands a reduction of rent, which the landlord refuses, to require the landlord to refer the question to arbitration. If he refuses the tenant's request he will be liable to pay compensation for disturbance if the tenant by reason of the refusal terminates the tenancy by notice to quit.

(9) Demands for increase or reduction of rent, if made later than six months after the commencement of the Act, which are made with the view of taking effect before the expiration of two years

from the commencement of the tenancy or from a previous increase or reduction of rent do not come within the provisions of sub-s. 1 (e) and sub-s. 3 as to arbitration. Consequently a landlord making such a demand for an increase and giving notice to quit on the tenant's refusal to agree will not escape compensation for disturbance, and a tenant making such a demand for a reduction and giving notice to quit on the landlord's refusal to agree will not be entitled to compensation for disturbance on quitting.

(10) In addition to the matters mentioned which are to be taken into consideration by an arbitrator in determining the rent, he must bear in mind sect. 8, sub-s. 1 of the Corn Production Act, 1917, which forbids the raising of rent in excess of what would have been obtained if Part I. of that Act were not in force.

(11) The compensation payable for disturbance is a sum representing the loss or expense incurred by the tenant in respect of the sale or removal of his household goods, implements of husbandry, etc., but "for the avoidance of disputes" it is to be computed as equal to one year's rent of the holding, unless it is proved that such loss or expenses exceeds one year's rent, in which case the whole loss or expenses incurred up to a maximum amount equal to two years' rent of the holding will be recoverable. In *Re Evans and Glamorganshire County Council* (10 L. G. R. 805; 76 J. P. 468) the loss or expenses "unavoidably incurred" in connection with the sale of a tenant's stock under the legislation then in force was held to include loss sustained by selling the stock by public auction on going out, as against its sale if sold under ordinary circumstances, and the cost of supplying refreshments to those attending the auction, if found to be customary, but not the fee paid by the tenant for valuing his stock before sale. The latter fee would, it is submitted, be included in "expenses reasonably incurred by him in the preparation of his claim for compensation" under this subsection. In *Barbour* v. *M'Douall* ((1914) S. C. 844) it was held that the compensation would include not merely the expense of the sale of stock but loss through deterioration of the stock upon a sale.

The question may arise whether in a case where it is clear that no loss or expense directly attributable to quitting the holding has in fact been incurred by the tenant there will be a right to recover one year's rent of the holding as compensation for disturbance. Such a case might occur where land is let without house or buildings to a tenant for grazing purposes only or to a tenant who has sub-let the land and does not cultivate it himself. It is submitted that there can be no right to compensation for loss or expense which has not been incurred at all, the round figure of one year's rent only applying where there has been *some* loss or expense, but the point cannot be said to be free from doubt.

§ 10.

([12]) The tenant must have given the landlord before sale of any goods, implements, etc., in respect of which he claims, an opportunity of valuation though this would seem unnecessary when the tenant claims the one year's rent and no more. The tenant is not bound on his own initiative to make the landlord an offer of an opportunity of making a valuation if the landlord has in fact been given such an opportunity: see *Barbour* v. *M'Douall* ((1914) S. C. 844) and *Re Payne Smith and Hewitt* (1 Law Journal C. C. Rep. 49).

([13]) The notice of intention to claim compensation need only be given not less than one month before the termination of the tenancy and not within two months of the notice to quit or refusal to grant a renewal of the tenancy as under sect. 11 of the Act of 1908. See Form 32.

([14]) Under sect. 23 of the Act of 1908 if notice to quit part of the holding is given with a view to the use of the land for any of the purposes therein mentioned, the tenant may within 28 days after service of the notice to quit give the landlord notice that he accepts it as a notice to quit the entire holding to take effect on the expiration of the then current year of tenancy. This sub-section provides that in such a case the outgoing tenant shall not have the right to compensation for disturbance in respect of the entire holding if (a) the part of the holding affected by the landlord's notice to quit, together with any other part already resumed under a previous notice under section 23, is less than one fourth part of the original holding, or (b) the holding as proposed to be diminished is reasonably capable of being cultivated as a separate holding. The tenant will however be entitled to compensation for disturbance in respect of the part of the holding to which the landlord's notice to quit relates to be measured presumably at the rate of the proportionate rent of such part for one year.

([15]) The words "not being the use of the land for agriculture" will make compensation for disturbance payable where a local authority gives notice to terminate a tenancy of land let by them for the purpose of reletting it in small holdings. If the land was not originally let to the tenant, who is dispossessed, by the Local Authority, but by some other owner from whom they have acquired the land, they will be liable in the same way as any other landlord to pay compensation for disturbance in consequence of a notice to quit for any purpose. The Small Holdings Act, 1910 (10 Edw. 7 and 1 Geo. 5, c. 34), which gave compensation for disturbance in certain cases to tenants whose land is taken for small holdings is repealed by the Agriculture Act, 1920.

([16]) In order to bring a holding within exception (g) the holding must have been in the occupation of the landlord for at least twelve

months and then let by a contract in writing expressly reserving to the landlord the right to resume possession before the expiration of a specified term not exceeding seven years by notice to quit without becoming liable to pay compensation for disturbance and the notice to quit must be served for the purpose of resuming occupation by the landlord. The exception is intended to meet cases when land is let temporarily by a landlord (which includes any person for the time entitled to receive the rents and profits) who has previously occupied the land and desires to resume occupation again at a future date, *e.g.*, a case when a father has farmed his own land and dies and his son who has succeeded to the property will not be in a position to take the farm into his own hands for some years, but wishes to do so eventually.

([17]) A tenant occupying two or more holdings is not likely to suffer the same loss by being dispossessed of one of his holdings as a tenant who receives notice to quit the only holding occupied by him. The case of a person farming land of his own and working another farm as tenant is not, though it might very well have been, included in this sub-section.

([18]) It is not easy to see the reason for inserting sub-sect. 11, as the word "holding" as defined in sect. 48 of the Act of 1908 would not include a garden or pleasure ground or in most cases a park unless it was let as part of a farm, though it might include land adjoining a mansion house "which is required for its protection or amenity" if let to a farmer. In cases included in this sub-section, sect. 11 of the Act of 1908, although otherwise repealed, will still apply and a tenant will be entitled to compensation if his tenancy is terminated "without good and sufficient cause, and for reasons inconsistent with good estate management" (*ante*, p. 49). If a farm letting includes both land excluded by this sub-section from the general provisions of the section and land not so excluded, different considerations will have to be applied by the arbitrator in adjudicating on the tenant's claim for compensation for disturbance and the sums (if any) payable will have to be assessed separately. As to the meaning of the word "park" see note ([1]) to sect. 4 (*ante*, p. 173).

([19]) As to the recovery of compensation payable, see sect. 14 of the Act of 1908.

Compensation for disturbance in case of allotment gardens.

11.—(1) The provisions of this Act as to compensation for disturbance in the case of a holding shall apply with the necessary modifications in the case of an allotment garden, but subject to the provisions of this section.[1]

(2) Where the tenancy of an occupier of an allotment

§ 11. garden is terminated by reason of a notice to quit which is less than one year's notice, the compensation shall be either such an amount as is payable under the provisions applied by this section or such an amount as represents the benefits which would have accrued to the occupier from the occupation of the allotment garden on the terms of the expired tenancy during the period between the date of the expiration of the tenancy and the end of one year from the date on which the notice to quit was given, whichever amount is greater : [2]

Provided that this subsection shall not apply where possession of the land is reasonably required for naval, military, or air force purposes or for building, mining, or other industrial purposes, or for roads necessary in connection with any of those purposes.

(3) Compensation under this section shall not be payable in the case of an allotment garden provided by a local authority for the purposes of the Small Holdings and Allotments Act, 1908, where the occupier is resident more than one mile out of the district of the local authority.[3]

8 Edw. 7, c. 36.

(4) Any question as to whether compensation is payable under this section, or as to the amount payable, shall be determined under and in accordance with the provisions of the Allotments and Cottage Gardens (Compensation for Crops) Act, 1887, in the same manner as the amount of compensation for crops or other matters is determined under that Act, and the compensation under this section shall be in addition to any compensation payable under that Act.[4]

50 & 51 Vict. c. 26.

(5) So much of the last-mentioned Act as provides that that Act shall not extent to the Metropolis is hereby repealed as respects any tenancy which terminates after the commencement of this Act.

(1) This section extends the provisions of sect. 10 as to compensation for disturbance to allotment gardens "with the necessary modifications." There is no definition of "allotment garden" in this Act, but in the Allotments and Cottage Gardens Compensation for Crops Act, 1887, "allotment" is defined in section 4 as meaning

"any parcel of land of not more than two acres in extent held by a tenant under a landlord and cultivated as a garden or as a farm, or partly as a garden and partly as a farm" (see *ante*, p. 111). So far as an allotment is cultivated as a farm it would not be within this section. The provisions of sect. 10 are to apply "with the necessary modifications." It is not clear what these necessary modifications will be though a good deal of modification will be required to make the section applicable. For instance an allotment holder would be unlikely to suffer loss or expense directly attributable to his quitting his holding in connection with "the sale or removal of his household goods, implements of husbandry, fixtures, farm produce or farm stock" which are the subjects of compensation for disturbance to a farm tenant. His gardening tools and growing crops would seem to be the only things he would have to remove and the loss or expense in connection therewith might be trifling. Moreover if the tenancy were terminable on one month's notice or less it might be impossible to give the month's notice of claim required by sect. 10, sub-s. 7 (b). §§ 11, 12.

(2) A tenant whose tenancy of an allotment garden is terminated by less than one year's notice to quit is given in lieu of compensation for disturbance under sect. 10, which would be one or at most two years' rent of the allotment, an amount representing the benefits which would have accrued to him if he had occupied till the end of a year from the date when the notice to quit was given if such amount would be larger than what he would get under sect. 10. The "benefits which would have accrued" would appear to be the value of the crops he might have grown after deducting expenses. If however the land is "reasonably required" for naval, military building or some other of the purposes mentioned in the proviso to this sub-section, the tenant will not have the right to this alternative compensation but must take the compensation given by sect. 10.

(3) Under the Small Holdings and Allotments Act, 1908, the tenancy of an allotment may be terminated on one month's notice if the tenant is resident more than one mile out of the borough, district or parish for which the allotments are provided.

(4) As to the assessment of compensation under the Allotments and Cottage Gardens (Compensation for Crops) Act, 1887, see sects. 7–16 of the Act (*ante*, p. 114). If the landlord and tenant fail to agree, the assessment is by an arbitrator appointed by them jointly or if they fail to concur in a joint appointment by an arbitrator appointed by the justices of the peace of the petty sessional division where the holding is situated.

12. Where the occupation of a dwelling-house (including a garden attached thereto) forming part of a holding to Application of Act to

§ 12. cottage on holdings under Act of 1908.

which the Act of 1908 applies has been allowed by the tenant of the holding to a workman employed by him in agriculture on the holding, whether the occupation is under a contract of tenancy or not, and the occupation is terminated on account of the termination by the tenant of the holding of the employment of the workman, the provisions of the section of this Part of this Act relating to compensation for disturbance shall (subject as hereinafter provided and so far as the same are capable of application) apply as if the dwelling-house (including a garden attached thereto) were a holding and, where there is no contract of tenancy, as if the person allowing the dwelling-house to be so occupied were the landlord and the workman were the tenant, and the notice to terminate the occupation were a notice to quit : [1]

Provided that—

(1) compensation shall not be payable under this section if—

(*a*) the notice to terminate the occupation is given before the expiration of six weeks from the commencement of the occupation ; or

(*b*) the tenant of the holding has, before giving the notice, obtained from the district wages committee, or a sub-committee to which power in that behalf has been delegated by the committee, a certificate that the termination of the occupation is necessary or expedient to enable the holding to be worked properly or to better advantage ; [2] or

(*c*) the employment of the workman is for a year or half-year, and the occupation is terminated at the end of such period ; or

(*d*) the workman does not cease to occupy the dwelling-house on the expiration of the notice to terminate his occupation thereof or on the expiration of a period of two months from the date when the notice was given whichever is the later ; or

(*e*) the notice is given by reason of the employment of the workman having been terminated on account of his misconduct, and such reason shall be substituted for the reasons specified in subsection (1) of the said section,[3] and § 12.

(2) for the purpose of compensation the year's rent of the dwelling-house shall be taken to be a sum equal to fifty-two times the maximum weekly value (not exceeding in any case three shillings) of the benefit of the provision of a cottage free from rent and rates as determined for the district under the provisions of the Act of 1917 ;[4] and

(3) Subsections (2) and (3) and paragraph (*b*) of subsection (7) of the said section shall not apply ;[5] and

(4) any question as to whether compensation is payable under this section or as to the amount payable shall, on the application of the tenant or workman, be determined by the district wages committee or a sub-committee to which power in that behalf has been delegated by the committee, and the committee or sub-committee may, in any case in which it appears to them to be just, direct the payment by the tenant to the workman of a sum in respect of his expenses of appearing before them, and any sum so directed to be paid shall be recoverable summarily from the tenant as a civil debt :[6]

Provided also that, where under paragraph (*b*) of this section the tenant of a holding seeks to obtain a certificate from the district wages committee or a sub-committee of that committee, the workman shall be entitled to appear before the district wages committee or the sub-committee, as the case may be, and shall, in the event of the certificate being refused, also be entitled to recover from the tenant such sum as the committee, or sub-committee, may direct in respect of any expenses incurred by him in appearing before them.

§ 12.

(1) This section is intended to meet the case of what are called "tied cottages" or cottages let with a farm for the occupation of farm-labourers employed by the farmer. It applies where the labourers' occupation, whether it is under a contract of tenancy or not, is terminated "on account of the termination by the tenant of the holding of the employment of the workman." It is to be noticed that the section does not apply except where the cottage forms part of a holding let to a tenant. It has no application where cottages are let separately from the holding, though by the same landlord, or where the workman is in occupation of a cottage owned by the employer for whom he is working. It applies to the tied cottage the provisions of sect. 10 as to compensation for disturbance "so far as the same are applicable," a qualification which may give rise to some troublesome questions.

(2) District wages committees have been set up throughout the country by the Agricultural Wages Board under the power conferred on them by Schedule I., rule 12, to the Corn Production Act, 1917. A tenant of a holding in order to protect himself from the liability to pay compensation for disturbance under this section may apply to the district wages committee for a certificate that the termination of the workman's occupation is necessary or expedient to enable the holding to be worked properly or to better advantage. The certificate must be obtained *before* the notice is given. Under the concluding proviso of this section, the workman may appear before the district wages committee and contest the right of the tenant to obtain a certificate, and if the certificate is refused he will be entitled to recover his expenses from the tenant.

(3) Sub-s. 1 of sect. 10 mentions certain reasons for giving a notice to quit which will disentitle the tenant to compensation for disturbance.

(4) Under sect. 12, sub-s. 1 (b) of the Corn Production Act, 1917, the Agricultural Wages Board are empowered to ascertain the value of the provision of a cottage free from rent and rates as a benefit which may be reckoned as part payment of wages of an agricultural labourer in lieu of payment in cash. Under an Order of the 6th September, 1918, the value of a cottage is to be reckoned at 3*s.* a week less any rent or rates which may be paid by the occupier.

(5) Sub-s. 2 of sect. 10 provides for the giving of a certificate by the agricultural committee of non-cultivation according to the rules of good husbandry; sub-s. 3 provides for arbitration as to rent; and sub-s. 7, paragraph (b) requires notice in writing of intention to make a claim for compensation to be given not less than one month before the termination of the tenancy. These provisions are not to apply to a claim for compensation under this section.

(6) Questions as to the liability for and amount of compensation

under this section are determinable not by an arbitrator but by the district wages committees (or sub-committees thereof) established as above mentioned. There is apparently no appeal from the decision of the committee or sub-committee, nor is such body given the power of stating a case for the opinion of a court of law as may be done by an arbitrator acting under sect. 10. There was originally a mistake in the last line of this sub-section; "*by* the tenant" being inserted instead of "*from* the tenant." This mistake has now been amended by the sect. 1, sub-s. 2, *post*, p. 228, Agricultural (Amendments) Act, 1921.

Extension of tenancies under leases for a term of years.

13.—(1) In the case of a tenancy of a holding for a term of two years or upwards, the tenancy shall not terminate on the expiration of the term for which it was granted unless not less than one year nor more than two years before the date fixed for the expiration of the term a written notice has been given by either party to the other of his intention to terminate the tenancy, and any notice so given shall be deemed to be a notice to quit for the purposes of the Act of 1908 and this Act.[1]

(2) If no such notice is given the tenancy shall, as from the expiration of the term for which it was granted, continue as a tenancy from year to year, but otherwise so far as applicable on the terms of the original tenancy.

(3) This section shall not apply to any tenancy granted, or agreed to be granted, before the commencement of this Act.[2]

(4) In any case to which this section shall apply, it shall apply notwithstanding any agreement to the contrary.

(1) This section is a new departure, inasmuch as it makes at least one year's notice necessary for the termination of a tenancy for a term of two years or more, which apart from this section would determine without any notice at the end of the term: Woodfall's Landlord and Tenant (20th edn.), p. 421. The section however does not apply to a letting for a term of one year only or other definite term less than two years. The notice to determine the tenancy will be a notice to quit for the purposes of this Act and the Act of 1908, and, if given by the landlord, will involve the consequences of such a notice, viz. the right of the tenant to compensation for disturbance under sect. 10 of this Act unless it is given for any of the reasons mentioned in sub-s. 1 and is stated to be so given. See Form 16.

(2) The section does not apply to any tenancy granted or agreed to be granted before the commencement of the Act. In the case

§§ 13, 14. of such a tenancy a question arises as to the tenant's right to compensation for disturbance. Under sect. 11 of the Act of 1908, the tenant would have been entitled to compensation for disturbance if the landlord without good and sufficient cause and for reasons inconsistent with good estate management having been requested in writing at least one year before the expiration of the tenancy refused to renew it. But this section is now repealed and there being no notice to quit required in the case of a tenant under a current tenancy for a fixed term he will not be entitled to compensation for disturbance under sect. 10 of this Act, which only applies where there has been a notice to quit. He is apparently therefore left without any right of compensation for unreasonable disturbance unless it is preserved to him by sect. 38 of the Interpretation Act, 1889, which seems doubtful.

Amendment of Landlord and Tenant Act, 1851. 14 & 15 Vict. c. 25.

14. Where the tenancy of a holding determines in the circumstances mentioned in section one of the Landlord and Tenant Act, 1851, the tenant shall, instead of continuing in occupation as provided by that section until the expiration of the then current year of his tenancy, continue in occupation until the occupation is determined by a twelve months' notice to quit expiring at the end of a year of the tenancy.[1]

(1) The Landlord and Tenant Act, 1851, applies to any lease or tenancy of any farm or lands held by a tenant at rack rent determining by the death or cesser of the estate of any landlord entitled for his life or for any uncertain interest (*e.g.*, a tenancy of glebe lands which is determined by the death of the incumbent or vacation of his benefice). It provides that instead of a claim to emblements the tenant shall continue to hold and occupy such farm or lands until the expiration of the then current year of the tenancy and then shall quit upon the terms of his lease or tenancy. In lieu of this provision this section provides that the tenant in such a case shall be entitled to continue in occupation until the occupation is determined by a twelve months' notice to quit, when he will have the rights given by this Act as to compensation for disturbance, etc. It is to be presumed that he will hold as yearly tenant upon the terms of his lease or tenancy agreement so far as applicable, though this is not expressly so stated. The Act of 1851 applies to any case where there might have been a claim to emblements, *e.g.*, to a cottage with about an acre of land cultivated as a garden and partly sown with corn and planted with potatoes: *Haines* v. *Welch* (L. R. 4 C. P. 91; 38 L. J. C. P. 118).

§ 15. Amendment of law as to improvements.

15.—(1) Where the landlord of any holding refuses or within a reasonable time fails to consent in manner required by section two of the Act of 1908 to the making of any improvement comprised in Part I. of the First Schedule to that Act, (other than the erection, alteration, or enlargement of buildings or an improvement comprised in the Third Schedule to that Act) which is declared by regulation made by the Minister to be an improvement to which this subsection applies, either absolutely or except upon such terms as the tenant is unwilling to accept, the agricultural committee for the area in which the holding is situate may, on the application of the tenant and after giving the landlord or his representative an opportunity of being heard, direct that the improvement shall be treated for the purposes of the Act of 1908 as if it were an improvement comprised in Part II. of the First Schedule to that Act, and any direction given by the agricultural committee under this subsection may be given subject to such conditions, if any, for the protection of the landlord, as the committee think fit:

Provided that, in considering any such application, the agricultural committee shall have special regard to the estimated cost of the improvement in relation to the rent of the holding.

A draft of any regulations made under this subsection shall be laid before each House of Parliament for not less than thirty days during which that House is sitting, and, if either House before the expiration of that period presents an address to His Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, but without prejudice to the making of any new draft regulation.[1]

(2) The Minister may by regulation substitute such percentages or period as he thinks fit for the percentages and period mentioned in subsection (3) of section three of the Act of 1908, having due regard to the current rates of interest.[2]

(3) Subject to the provisions of this section, where a

§ 15. tenant desires to make on his holding or any part of his holding any improvement comprised in the Third Schedule to the Act of 1908 and the landlord refuses, or within a reasonable time fails, to agree in writing that the holding or that part of the holding shall be treated as a market garden, the agricultural committee for the area in which the holding is situate may, on the application of the tenant and after hearing the landlord or his representative, and after being satisfied that the holding or part of the holding is suitable for the purposes of market gardening, direct that section forty-two of the Act of 1908 shall, either in respect of all the improvements comprised in the said Third Schedule or in respect of some only of those improvements, apply to the holding or to that part thereof, and the said section shall apply accordingly as respects any improvements executed after the date on which the direction is given. Provided that nothing in this sub-section shall authorise the breaking up of meadow land or pasture.[3]

Any direction given by an agricultural committee under this subsection shall be subject to such conditions, if any, for the protection of the landlord, as the committee may think fit to attach to the direction, and, where any such direction is given, the following provisions shall have effect :

(*a*) If the tenancy is terminated by notice to quit given by the tenant or by reason of the tenant becoming bankrupt or compounding with his creditors, the tenant shall not be entitled to compensation in respect of any such improvements as are specified in the direction unless the tenant not later than one month after the date on which the notice to quit is given or the date of the bankruptcy or composition, as the case may be, or such later date as may be agreed, produces to the landlord an offer in writing by a substantial and otherwise suitable person (being an offer which is to hold good for a period of three months from the date on which it is produced), to accept a tenancy of the holding from the termination

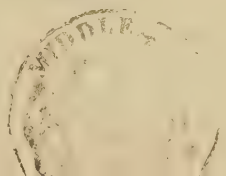
of the existing tenancy thereof, and on the terms and conditions of that tenancy so far as applicable, and subject as hereinafter provided, to pay to the outgoing tenant all compensation payable under the Act of 1908, or under the contract of tenancy, and the landlord fails to accept the offer within three months after the production thereof; and

(*b*) If the landlord accepts any such offer, the incoming tenant shall pay to the landlord on demand all sums payable to him by the outgoing tenant on the termination of the tenancy in respect of rent or breach of contract or otherwise in respect of the holding, and any amount so paid may, subject to any agreement between the outgoing tenant and incoming tenant, be deducted by the incoming tenant from any compensation payable by him to the outgoing tenant; [4] and

(*c*) If the direction relates to part only of the holding, the direction may, on the application of the landlord, be given subject to the condition that the tenant shall consent to the division of the holding into two parts (one such part being the part to which the direction relates) to be held at rents agreed by the landlord and tenant or in default of agreement settled by the committee, but otherwise on the same terms and conditions as the original holding, so far as applicable.

(4) A new tenancy created by the acceptance of a tenant in accordance with the provisions of this section on the terms and conditions of the existing tenancy shall not be deemed to be a new tenancy for the purposes of the provisions of this Act relating to demands for arbitration as to rent.

(5) The powers under this section of an agricultural committee may in the case of a holding situate in a county borough for which an agricultural committee has not been appointed, be exercised by the Minister.



§ 15. (6) In the exercise of their powers under this section the agricultural committee and the Minister shall have regard to the likelihood of the land being required for any purpose other than agriculture.

(7) If in any case a landlord or tenant by notice in writing given to the other party shall so require, the powers which under this section may be exercised by a committee shall in that case be exercised by an arbitrator appointed and acting under and in accordance with the provisions of the Act of 1908.

(1) This sub-section enables a tenant whose landlord refuses or fails to consent in writing under sect. 2 of the Act of 1908 to his making an improvement comprised in Part I. of the First Schedule to the Act of 1908 to obtain from the county agricultural committee a direction that the improvement shall be treated as if it were a drainage improvement comprised in Part II. of the First Schedule (see sect. 3 of the Act of 1908, *ante*, p. 36), in which case the tenant on the refusal of the landlord to execute it may do so himself and recover compensation at the end of his tenancy. But the improvement to come within this section must not consist of the erection, alteration or enlargement of buildings or any of the improvements comprised in the Third Schedule to the Act of 1908 and also in Part I. of the First Schedule. Such last mentioned improvements appear to be those in item (11) of Part I., viz., planting of orchards or fruit bushes. Furthermore the improvement must be one declared by regulation of the Minister to be one to which the sub-section applies. At present there is no regulation in force under this sub-section. The agricultural committee, in considering the tenant's application, must have regard to the estimated cost of the improvement in relation to the rent of the holding, presumably in order that a landlord may not have an undue burthen by way of compesation imposed upon him. See Form 7.

(2) Sub-s. 3 of sect. 3 of the Act of 1908 enables the landlord to execute the improvement of which notice has been given by the tenant himself and recover from the tenant interest on the outlay at a rate not exceeding five per cent. or an annual sum which will repay the outlay with interest at three per cent. in twenty-five years. This sub-section enables the Minister to alter their percentages for this period. See Regulation in Appendix III, Part I.

(3) This sub-section enables the county agricultural committee on the application of a tenant in respect of all or part of a holding "after being satisfied that the holding or part of the holding is suitable for the purposes of market gardening" to direct that either

in respect of all or some of the improvements comprised in the Third Schedule to the Act of 1908, sect. 42 of that Act shall apply to the holding or that part of it (see *ante*, p. 87), that is to say, the provisions of the Act will apply as if the improvements covered by the direction were comprised in Part III. of the First Schedule to the Act, and the tenant will be able to obtain compensation on quitting for such improvements made by him without his landlord's consent, and will have the right of removal given by sub-s. 1 of sect. 42. This is what it is presumed is intended, though the direction "that section forty-two of the Act of 1908 shall . . . apply" is not a very accurate way of putting it, because the section provides that an agreement in writing that the holding shall be let or treated as a market garden is a necessary condition (except in cases of contracts of tenancy current on January 1, 1896) to the right to compensation for the improvements comprised in the Third Schedule.

(4) The latter part of this sub-section applies what is known as the "Evesham Custom," where direction has been given that section 42 shall apply and the tenancy is terminated by notice to quit from the tenant or by reason of his being bankrupt or compounding with his creditors. The effect shortly will be that the tenant will only be able to obtain his compensation from some person "being a substantial and otherwise suitable person" willing to take on a tenancy of the holding on the terms of the existing tenancy, *i.e.*, to buy the existing tenant's interest, unless the landlord fails to accept the proposed new tenant.

If notice to quit is given by the landlord, unless it is for any of the reasons excepted by sub-s. 1 of section 10 or unless the right to compensation for disturbance is excluded under sub-s. 7 of that section, the tenant will not only be entitled to compensation for his market garden improvements but also to compensation for disturbance. This heavy liability of the landlord will tend to give the tenant practical fixity of tenure.

Compensation for continuous adoption of special standard or system of farming.

16.—(1) Where a tenant who quits a holding after the commencement of this Act on so quitting proves to the satisfaction of an arbitrator appointed under the Act of 1908 that the value of the holding to an incoming tenant has been increased during the tenancy by the continuous adoption of a standard of farming or a system of farming which has been more beneficial to the holding than the standard or system (if any) required by the contract of tenancy, the arbitrator shall award to the tenant such

§ 16. compensation as in his opinion represents the value to an incoming tenant of the adoption of that standard or system : [1]

Provided that—

(*a*) This section shall not apply in any case unless a record of the condition of the holding has been made under the Act of 1908 or in respect of any matter arising before the date of the record so made ; and

(*b*) Compensation shall not be payable under this section unless the tenant has, before the termination of the tenancy, given notice in writing to the landlord of his intention to claim such compensation ; and

(*c*) The arbitrator in assessing the value to an incoming tenant shall make due allowance for any compensation agreed or awarded to be paid to the tenant for any improvement specified in the First Schedule to the Act of 1908 which has caused or contributed to the benefit.

(2) Nothing in this section shall entitle a tenant to recover in respect of an improvement specified in the First Schedule or the Third Schedule to the Act of 1908 any compensation which he would not have been entitled to recover if this section had not been passed.

(3) The continuous adoption of such a beneficial standard or system of farming as aforesaid shall be treated as an improvement for the purposes of the provisions of this Act relating to the determination of the rent properly payable in respect of a holding.

(1) This section adds to the list of improvements for which a tenant may claim compensation, another item, namely the continuous adoption of a special standard or system of farming more beneficial to the holding than the standard or system required by the contract of tenancy. In order to obtain this compensation the tenant must show that a record of the condition of the holding has been made under sect. 27 of the Act of 1908 (*ante*, p. 75) and he can only claim for the improvement in the holding as from the date of such record. It must also be shown that the value of the

holding has been increased to an incoming tenant, so as to exclude cases where some special scientific system has been adopted which could not be carried out by an ordinary tenant without special scientific training. Notice must be given in writing of intention to claim before the termination of the tenancy. The operation of this section may, to some extent, be avoided by a stipulation in the contract of tenancy for the highest possible standard of farming.

Determination of claims for compensation where a holding is divided.

17.—(1) Where a holding has become vested in more than one person in several parts and the rent payable by the tenant of the holding has not been apportioned with his consent or under any statute, the tenant shall be entitled to require that any compensation payable to him under the Act of 1908 shall be determined as if the holding had not been divided, and the arbitrator shall, where necessary, apportion the amount awarded between the persons who for the purposes of the Act of 1908 together constitute the landlord of the holding, and any additional costs of the award caused by the apportionment shall be directed by the arbitrator to be paid by those persons in such proportions as he shall determine.[1]

(2) This section shall not apply in the case of a tenancy which terminates before the commencement of this Act.

(1) This section is intended to meet the case where a farm let at an entire rent has become divided in ownership either by sale, or by the death or will of the original proprietor, or by partition between joint tenants, or otherwise, among different persons. When a legal apportionment of the rent has been effected in any such case, separate tenancies will be created. The apportionment may at any time be effected with the consent of the tenant or he may claim to have it legally made by a jury: *Bliss* v. *Collins* (5 B. & Ald. 876). If the tenancy is determined before such apportionment has been made, the arbitrator is directed at the request of the tenant to assess "any compensation payable under the Act of 1908" as a whole as if the holding had not been divided and if necessary to apportion the amount awarded between the persons who for the purposes of the Act of 1908 together constitute "the landlord" (see the definition in sect. 48 (1), *ante*, p. 94). Apparently these persons will be severally liable only for the amounts respectively apportioned to them. It would seem that "any compensation payable . . . under the Act of 1908" will include compensation for disturbance in a case falling within sect. 10 of the Act of 1920, for sect. 33 (6)

§§ 17, 18. of this Act provides that references to the Act of 1908 are to be construed as referring to that Act as amended by any other Act including this Act, and sect. 10 of this Act is included in Part II., which is put forward as being an "Amendment of Agricultural Holdings Acts."

Arbitration on quitting holding.

18.—(1) Any question or difference arising out of any claim by the tenant of a holding against the landlord for compensation payable under the Act of 1908 or for any sums claimed to be due to the tenant from the landlord for any breach of contract or otherwise in respect of the holding, or out of any claim by the landlord against the tenant for waste wrongly committed or permitted by the tenant or for any breach of contract or otherwise in respect of the holding, and any other question or difference of any kind whatsoever between the landlord and the tenant of the holding arising out of the termination of the tenancy of the holding or arising, whether during the tenancy or on the termination thereof, as to the construction of the contract of tenancy shall be determined by arbitration under the Act of 1908.[1]

(2) Any such claim as is mentioned in this section shall cease to be enforceable after the expiration of two months from the termination of the tenancy unless particulars thereof have been given by the landlord to the tenant or by the tenant to the landlord, as the case may be, before the expiration of that period : [2]

Provided that, where a tenant lawfully remains in occupation of part of a holding after the termination of the tenancy, particulars of a claim relating to that part of the holding may be given within two months from the termination of the occupation.[3]

(3) This section shall not apply in the case of a tenancy which terminates before the commencement of this Act.

([1] This section is very comprehensive in referring all questions and differences between landlord and tenant arising out of the termination of the tenancy to arbitration under the Act of 1908, *i.e.*, to a single arbitrator notwithstanding any agreement for a different method of arbitration : see sect. 13 of the Act of 1908

(*ante*, p. 58), and the rules as to arbitration in the Second Schedule to that Act (*ante*, p. 103). Any question as to compensation for disturbance is not expressly mentioned and the only compensation mentioned is "compensation payable under the Act of 1908," but this would include compensation for disturbance by virtue of sect. 10, sub-s. 10 of this Act. Not only are all questions arising on the termination of the tenancy to be referred to arbitration, such as claims for improvements, tillages, tenant rights, breaches of covenant, and dilapidations, but also questions "arising whether during the tenancy or on the termination thereof, as to the construction of the contract of tenancy." As to all questions comprised in this sub-section the jurisdiction of the Courts is apparently ousted, as the words "shall be determined" are imperative, so that neither landlord nor tenant will have an alternative remedy by action for breach of contract or otherwise.

(2) No notice is required to be given before the termination of the tenancy as to any of the claims by the landlord referred to arbitration under sub-s. 1, and sect. 6, sub-s. 2 and 3 of the Act of 1908 which required such notice to be given is repealed. The only requirement is that particulars of any claim under sub-s. 1 must be given to the other party in writing before the expiration of two months from the termination of the tenancy and if not so given the claim will be unenforceable. The particulars, it is submitted, need not necessarily specify the amount of compensation claimed though it may be convenient generally that they should do so. The right to claim in respect of any matter not included in the particulars will be barred after the expiration of the two months. It should however not be overlooked that a notice of a claim by a landlord for deterioration if made under sect. 19 must be given before the termination of the tenancy. See Forms 26, 27, 28.

(3) This proviso is no doubt included to meet cases where the tenant has by custom of the country or agreement the right to "hold over" part of the farm after giving up the main portion.

Compensation to landlord for deterioration of holding.

19. Where a landlord proves, to the satisfaction of an arbitrator appointed under the Act of 1908, on the termination of the tenancy of a holding, that the value of the holding has been deteriorated during the tenancy by the failure of the tenant to cultivate the holding according to the rules of good husbandry or the terms of the contract of tenancy, the arbitrator shall award to the landlord such

§§ 19, 20. compensation as in his opinion represents the deterioration of the holding due to such failure : [1]

Provided that compensation shall not be payable under this section unless the landlord has, before termination of the tenancy, given notice in writing to the tenant of his intention to claim such compensation : [2]

Provided also that nothing in this section shall prevent a landlord from claiming compensation for dilapidations or for the deterioration of the holding under the contract of tenancy.

(1) This section supplements sect. 26 of the Act of 1908, which gives the landlord the right to claim compensation for deterioration caused by the tenant taking advantage of the liberty of cropping and sale of produce contrary to the terms of his contract of tenancy. Under this section the landlord may claim compensation for any deterioration of the holding caused by failure to cultivate according to the "rules of good husbandry" or the terms of the contract of tenancy. In most cases the section is unnecessary, as any well drawn contract of tenancy would provide for the tenant's liability for injury or deterioration of the holding.

(2) In this case, differing from the cases of claims referred to in the last preceding section, notice in writing of claim must be given to the tenant before the termination of the tenancy.

Provisions for expediting and reducing costs of arbitrations.

20.—(1) Subject as hereinafter provided, the Minister may by rules make such provision (not being inconsistent with the rules contained in the Second Schedule to the Act of 1908) as he thinks desirable for expediting, or reducing the costs of proceedings on arbitrations under the Act of 1908.

(2) On an arbitration under the Act of 1908 the arbitrator—

(*a*) shall state separately in his award the amounts awarded in respect of the several claims referred to him ;[1] and

(*b*) may, if he thinks fit make an interim award for the payment of any sum on account of the sum to be finally awarded.

(3) A rule made under this section shall be laid before each House of Parliament forthwith, and, if an address is

presented to His Majesty by either House of Parliament within the next subsequent thirty days on which that House has sat next after any such rule is laid before it praying that the rule may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder. §§ 20, 21.

(1) Sub-s. 2 (a) of this section is imperative. The arbitrator "shall" state separately the amounts awarded in respect of the several claims referred to him. Under the Act of 1908 he was only obliged to state separately the amount awarded in respect of any claim if so requested. Sub-s. 2 (b) is optional and discretionary. He may if he thinks fit make an interim award for payment of any sum on account of the sum to be finally awarded. This provision is apparently intended to meet cases of hardship caused by delay in the proceedings on an arbitration.

Constitution of panel of arbitrators, and provision as to arbitrators' remuneration.

21.—(1) Such number of persons as may be appointed by the Lord Chief Justice of England, shall form a panel of persons from whom any arbitrator nominated, otherwise than by agreement, for the purposes of an arbitration under and in accordance with the provisions of the Second Schedule to the Act of 1908 shall be selected.[1]

(2) The remuneration of an arbitrator so nominated as aforesaid shall be such amount as is fixed by the Minister, and the remuneration of an arbitrator appointed by the parties to any such arbitration shall, in default of agreement between those parties and the arbitrator, be such amount as on the application of the arbitrator or either of the parties is fixed by the registrar of the county court, subject to appeal to the judge of the court.[2]

(3) The remuneration of an arbitrator when agreed or fixed under this section shall be recoverable by the arbitrator as a debt due from either of the parties to the arbitration, and any amount paid in respect of the remuneration of the arbitrator by either of those parties in excess of the amount (if any) directed by the award to be paid by him in respect of the costs of the award shall be recoverable from the other party to the arbitration.

(4) An arbitrator nominated otherwise than by agreement

§§ 21, 22. for an arbitration relating to a holding in Wales shall be a person who possesses a knowledge of Welsh agricultural conditions and, if either party to the arbitration so requires, a knowledge also of the Welsh language.

(5) This section shall not apply as respects any arbitrator nominated or appointed before the commencement of this Act.

(1) The Minister of Agriculture and Fisheries will no longer as under the Act of 1908 have the power of nominating any person he may select as arbitrator in default of the parties agreeing to appoint some particular person. His power of nomination will be confined to the persons placed on the panel of arbitrators by the Lord Chief Justice.

(2) The remuneration of an arbitrator is controlled by this subsection. It is to be fixed by the Minister in the case of an arbitrator nominated by him. When the arbitrator is agreed upon by the parties the registrar of the county court will have the power of fixing the remuneration and may apparently do so either before or after the arbitration is entered upon, but there is a right of appeal to the county court judge.

Resumption of part of holding by landlord.

22. Where after the commencement of this Act the landlord of a holding gives notice, in pursuance of a provision in that behalf contained in the contract of tenancy, of his intention to resume possession of some part of the holding, the provisions of paragraphs (*b*) and (*c*) of section twenty-three of the Act of 1908[1] (but not including the proviso thereto) shall apply as if the notice were such a notice to quit as is mentioned in that section :

Provided that, in assessing the compensation payable to the tenant and the reduction of rent, the arbitrator shall take into consideration any benefit or relief allowed to the tenant under the contract of tenancy in respect of any land resumed in pursuance of such provision.

(1) Paragraphs (b) and (c) of sect. 23 of the Act of 1908 provide that the compensation provisions of the Act shall apply to the part of the holding resumed and that the tenant shall be entitled to a proportionate reduction of rent (see *ante*, p. 70). The compensation payable in respect of the part resumed will apparently include compensation for disturbance under sect. 10 of this Act as

well as compensation for improvements, for under paragraph (b) "the provisions of this Act respecting compensation shall apply," etc., and under sect. 36, sub-s. 2 of the present Act, Part II. of the Act is to be construed as one with the Act of 1908 so that it would seem that "compensation" must refer to compensation of any kind payable under either Act. Moreover sect. 10, sub-s. 7 (d) contemplates that compensation for disturbance will be payable where a notice to quit part of a holding is given under sect. 23 of the Act of 1908.

Amendment of s. 40 of 8 Edw. 7, c. 28.

23.—(1) Section forty of the Act of 1908 shall have effect as though for the words "the powers by this Act conferred on a landlord (other than that of entering on a holding for the purpose of viewing the state of the holding)" and the words "the powers by this Act conferred on a landlord (other than as aforesaid)" contained in subsection (1) and subsection (2) respectively of the said section there were substituted the words "the powers by this Act conferred on a landlord in respect of charging land."[1]

(2) This section shall apply in relation to any power whether the power has been exercised before or after the commencement of this Act.

(1) As to these amendments, see *ante*, p. 87.

Extension of meaning of "holding."

24.—(1) Where the land comprised in a contract of tenancy is not a holding within the meaning of the Act of 1908 by reason only of the fact that the land so comprised includes land (hereinafter referred to as "the non-statutory land") which, owing to the nature of the buildings thereon or the use to which it is put, would not, if it had been separately let, be a holding within the meaning of the said Act, the provisions of the said Act relating to compensation for improvements and disturbance shall, unless otherwise agreed in writing, apply to the part of the land exclusive of the non-statutory land as if that part were a separate holding.[1]

(2) This section shall not apply in relation to a contract of tenancy made before the commencement of this Act

§§ 24, 25.

(1) In *Re Lancaster and Macnamara* (87 L. J. K. B. 1250; (1918) 2 K. B. 472) it was held that where 86 acres of pastoral land and an inn were demised together, the inn being rated by the local authority at £32 and the rest of the land demised at £102 15*s.*, the tenant was not entitled to compensation for improvements under sect. 1 of the Act of 1908, as the premises were not a "holding" within the definition in sect. 48 of the Act, not being "wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral." This section is intended to meet such a case, where agricultural property is included in one letting with property of a different character, and it applies the provisions of the Act as to compensation for improvements and disturbance (but not otherwise) to the part of the land, exclusive of the non-statutory land, as if it were a separate holding. The section does not apply in relation to a contract of tenancy made before January 1st, 1921, and it may be excluded by an agreement in writing, so that the application of the Acts can thus be avoided in cases where the letting includes substantial property of a character not coming within the scope of the Acts.

Prohibition of removal of manure, &c., after notice to terminate the tenancy.

25. Where after the commencement of this Act notice to terminate the tenancy of a holding is given, either by the tenant or by the landlord, the tenant shall not, subject to any agreement to the contrary, at any time after the date of the notice, sell or remove from the holding any manure or compost, or any hay or straw or roots grown in the last year of the tenancy, unless and until he has given the landlord or incoming tenant a reasonable opportunity of agreeing to purchase on the termination of the tenancy at their fair market value, or at such other value as is provided by the contract of tenancy, the said manure, compost, hay, straw, or roots.[1]

(1) This section is a statutory enactment of what is usually provided in relation to agricultural tenancies either by the contract of tenancy or by the custom of the country. It is to be noticed that the prohibition of removal of manure and compost is not confined to that produced in the last year of the tenancy as in the case of hay and straw. The price to be paid by the landlord or incoming tenant is, unless otherwise agreed, "the fair market value" and not the "consuming" or "spending" value which is more usually adopted.

It will in most cases be advisable in a contract of tenancy to retain the usual provision against sale or removal of manure, hay, straw, etc., and not to rely merely on this clause.

It is to be remembered that under sect. 26 of the Act of 1908 a tenant, notwithstanding any custom or contract to the contrary, may dispose of the produce of his holding freely except in the last year of his tenancy, but he is put under an obligation to protect the holding from injury or deterioration by returning the manurial equivalent of crops sold off or removed.

Record of holding.

26. If the landlord or tenant of a holding at any time during the tenancy so requires, a record of the condition of of the buildings, fences, gates, roads, drains, ditches and cultivation of the holding, and, if so required by the tenant, a record of any existing improvements executed by the tenant or for which the tenant is, under section seven of the Act of 1908, entitled to claim compensation, and of any fixtures or buildings which under section twenty-one of that Act the tenant is entitled to remove, shall be made by a person to be appointed in default of agreement by the Minister, and in default of agreement the cost of making any such record shall be borne by the landlord and tenant in equal shares.[1]

(1) This section is substituted for sect. 27 of the Act of 1908, which is now repealed. It is more comprehensive than the repealed section in extending to improvements for which the tenant is entitled to compensation and fixtures and buildings removable by him under sect. 21 of the Act of 1908. A record under this section may be required at any time during the tenancy and not at the commencement only. The provision as to the cost of the record may be varied by agreement between the parties.

Amendment of s. 4 of the Act of 1908.

27. Section four of the Act of 1908 (which relates to agreements as to compensation for improvements comprised in Part III. of the First Schedule to that Act) shall, after the commencement of this Act, apply only to improvements to which the provisions of section forty-two of the Act of 1908 apply or are directed under this Act to apply :[1]

Provided that this section shall not affect the operation of any agreement entered into before the commencement of this Act.

(1) This section takes away the possibility given by sect. 4 of the Act of 1908 of excluding the right to compensation under the Act

§§ 27, 28. for improvements in Part III. of the First Schedule to the Act by an agreement in writing substituting for compensation under the Act "fair and reasonable" compensation, except in the case of improvements to which sect. 42 of the Act of 1908 applies or may be directed to apply under sect. 15, sub-s. 3, of the present Act. Substituted compensation may however still be provided in respect of improvements comprised in Parts I. and II. of the First Schedule.

Notices to quit.

28.—(1) Notwithstanding any provision in a contract of tenancy to the contrary, a notice to quit a holding shall be invalid if it purports to terminate the tenancy before the expiration of twelve months from the end of the then current year of tenancy; but nothing in this section shall extend to a case where a receiving order in bankruptcy is made against the tenant.

(2) Section twenty-two of the Act of 1908 (which relates to the time of notices to quit), is hereby repealed.[1]

(3) This section shall not apply to—

(*a*) any notice given by or on behalf of the Admiralty, War Department, or Air Council under the provisions of any agreement of tenancy where possession of the land is required for naval, military, or air force purposes; or

(*b*) any notice given by a corporation carrying on a railway, dock, canal, water, or other undertaking in respect of any land acquired by the corporation for the purposes of their undertaking by a government department or local authority where possession of the land is required by the corporation, government department or authority for the purpose (not being the use of the land for agriculture)[2] for which it was acquired by the corporation, department, or authority or appropriated under any statutory provision; or

(*c*) any notice given in pursuance of a provision in the contract of tenancy authorising the resumption of possession of the holding or some part thereof for some specified purpose, unless that purpose is the use of the land for agriculture[2]: or

(*d*) any notice given by a tenant to a sub-tenant ;[3] or §§ 28–30.
(*e*) any notice given before the commencement of this Act.

(1) Sect. 22 of the Act of 1908, which made a year's notice to quit necessary in cases where a half-year's notice was by law necessary, could be and frequently was excluded by agreement. The present section, which is substituted for sect. 22, cannot be so excluded, so that, except in the excepted cases, a notice expiring less than twelve months from the end of the then current year of tenancy is henceforth invalid, whether given by the landlord or by the tenant, and whatever may be the provisions of the contract of tenancy. The case of a receiving order in bankruptcy made against the tenant is excluded, although in most contracts of tenancy there is a proviso for re-entry and determination of the tenancy upon (amongst other things) the bankruptcy of the tenant without the necessity of serving any notice to quit. It is submitted that the section will only apply where a notice to quit is required for the termination of a tenancy and not where the tenancy may be determined by re-entry without any previous notice. It would seem to apply to the case of a notice to determine a lease for a term of years given in pursuance of an option to either party to determine it at some intermediate period, *e.g.*, a lease for twenty-one years terminable by notice at the end of the seventh or fourteenth year.

(2) It is submitted that "agriculture" is here used in its proper and natural meaning, and not in the wide sense given it in the Corn Production Act, 1917, s. 17.

(3) This exception in the case of a notice by a tenant to a sub-tenant is curious. It would seem to enable a leaseholder to sub-let his land upon a tenancy terminable on less than twelve months' notice to quit

Minor amendments of 8 Edw. 7, c. 28, and 9 & 10 Geo. 5, c. 63.

29. The amendments in the second column of the First Schedule to this Act (which relate to minor details), shall be made in the provisions of the Agricultural Holdings Act, 1908, and the Agricultural Land Sales (Restriction of Notices to Quit) Act, 1919, specified in the first column of that schedule.

Part III.

General.

Expenses.

30. Any expenses incurred by the Minister in meeting payments under Part I. of the Act of 1917, and any expenses incurred by the Minister or any other department or body under any other provisions of that Act, shall be defrayed out of moneys provided by Parliament.

§§ 31, 32.

Provisions as to powers by agricultural committees.

31.—(1) Any powers authorised by any Act to be exercised by an agricultural committee other than the power conferred by this section may, unless otherwise expressly provided by that Act, be delegated by a committee to a sub-committee.[1]

(2) No member of an agricultural committee shall take part in any decision of the committee which relates to the land of which he is the owner or occupier, or the agent of the owner or occupier, or to any bargain or contract contemplated or entered into by the agricultural committee in which such member is directly concerned.

(1) The Ministry of Agriculture and Fisheries Act, 1919 (9 & 10 Geo. 5, c. 91) by sect. 7 provides that the council of every county (other than the London County Council) shall and the London County Council and the council of any county borough may establish an agricultural committee constituted in accordance with a scheme made by the council and approved by the Ministry. Any scheme must provide (*a*) for the appointment by the council of at least a majority of the agricultural committee, who shall be members of the council, unless, in the case of a county, the council otherwise determine, (*b*) for the appointment by the Ministry of not more than one-third of the members of the agricultural committee and of any sub-committee to which powers of the agricultural committee are delegated, and (*c*) for the inclusion of women as well as men among the members of the agricultural committee. Under sect. 8 the Ministry may authorise, subject to any restrictions or conditions they think fit, an agricultural committee or sub-committee thereof to exercise on behalf of the Ministry the powers of the Ministry under the provisions of Part IV. of the Corn Production Act, 1917, or Part II. of the Land Drainage Act, 1918 (8 & 9 Geo. 5, c. 17) or any powers of the Ministry in relation to land acquired by them under the Small Holdings Colonies Acts, 1916 to 1918 (6 & 7 Geo. 5, c. 38 and 8 & 9 Geo. 5, c. 26).

Dwelling-house occupied by workman employed in agriculture.

32. Notwithstanding any agreement to the contrary, where under any contract of employment of a workman employed in agriculture current at or made after the commencement of this Act, the provision of a dwelling-house or part of a dwelling-house for the occupation of the workman forms part of the remuneration of the workman, and the provisions of sections fourteen and fifteen of the

Housing, Town Planning, &c. Act, 1909, are inapplicable by reason only of the house or part of the house not being let to the workman, there shall be implied as part of the contract of employment and as from the commencement of the occupation or of this Act, whichever date is the later, the like conditions as would be implied under those provisions if the house or part of the house were so let, and those provisions shall apply accordingly as if incorporated in this section with the substitution of "employer" for "landlord" and such other modifications as may be necessary :[1] §§ 32, 33. 9 Edw. 7, c. 44.

Provided that this section shall not affect the obligation of any person other than the employer to repair a cottage to which this section applies or any remedy for enforcing any such obligation.

(1) Sect. 14 of the Housing, Town Planning, &c., Act, 1909 (9 Edw. 7 c. 44), in the case of a house situate in the administrative county of London let at a rent not exceeding £40, of a house situate in a borough or urban district with a population of 50,000 or upwards let at a rent not exceeding £26, and in the case of a house situate elsewhere let at a cost not exceeding £16, implies a condition that the house is at the commencement of the holding in all respects fit for human habitation except when the house or part of it is let for a term of not less than three years upon the terms that it is put by the lessee into a condition reasonably fit for occupation, and the lease is not determinable at the option of either party before the expiration of that term. Sect. 15 imposes the further condition that the house shall during the holding be kept by the landlord in all respects fit for human habitation. Power is given to local authorities to serve notice requiring the landlord to execute works necessary to make the house in all respects fit for human habitation, with power if the landlord does not comply with the notice for the local authority to do the work and recover the expenses from the landlord.

33. In this Act, unless the context otherwise requires,— Interpretation.

(1) The expression "the Minister" means the Minister of Agriculture and Fisheries :[1]

(2) The expression "Wales" shall be deemed to include "Monmouthshire" :

(3) The expression "agricultural committee" means the

§ 33.

9 & 10 Geo. 5, c. 91.

agricultural committee established for a county or borough under the Ministry of Agriculture and Fisheries Act, 1919, or, where the powers of an agricultural committee with respect to the matter in question have been delegated to a sub-committee, that sub-committee :[2]

(4) The expression "rules of good husbandry" means (due regard being had to the character of the holding) so far as is practicable having regard to its character and position—

(*a*) the maintenance of the land (whether arable, meadow, or pasture), clean and in a good state of cultivation and fertility, and in good condition ; and

(*b*) the maintenance and clearing of drains, embankments and ditches ; and

(*c*) the maintenance and proper repair of fences, stone walls, gates, and hedges ; and

(*d*) the execution of repairs to buildings, being repairs which are necessary for the proper cultivation and working of the land on which they are to be executed ; and

(*e*) such rules of good husbandry as are generally recognised as applying to holdings of the same character and in the same neighbourhood as the holding in respect of which the expression is to be applied :[3]

Provided that the foregoing definition shall not imply an obligation on the part of any person to maintain or clear drains, embankments, or ditches, if and so far as the execution of the works required is rendered impossible (except at prohibitive or unreasonable expense) by reason of subsidence of any land or the blocking of outfalls which are not under the control of that person, or in its application to land in the occupation of a tenant imply an obligation on the part of the tenant—

(i) to maintain or clear drains, embankments, or ditches, or to maintain or properly repair fences, stone walls, gates, or hedges where such work is not

required to be done by him under his contract of tenancy ;[4] or

(ii) to execute repairs to buildings which are not required to be executed by him under his contract of tenancy :[4]

(5) The expression "the Act of 1908" means the Agricultural Holdings Act, 1908, and the expression "the Act of 1917" means the Corn Production Act, 1917 : 8 Edw. 7, c. 28.

(6) References to the Act of 1908, or to the Act of 1917, or to any provision of either of those Acts, shall be construed as referring to that Act or to that provision as amended by any other Act, including this Act :[5]

(7) References to the terms, conditions, or requirements of a contract of tenancy of or of an agreement relating to a holding shall be construed as including references to any obligations, conditions, or liabilities implied by the custom of the country in respect of the holding.

([1]) The Ministry of Agriculture and Fisheries was substituted for the Board of Agriculture and Fisheries by the Ministry of Agriculture and Fisheries Act, 1919.

([2]) See note ([1]) to sect. 31 (*ante* p. 216) as to the constitution of county agricultural committees and sub-committees under the above-mentioned Act.

([3]) The "rules of good husbandry" enumerated in this section, are of great importance and are referred to on several points in this Act. Under sect. 4, sub-s. 1, if not observed, they are a ground for interference by the Minister or the county agricultural committee acting on his behalf. Under sect. 10, sub-s. 1, if a notice to quit is given by the landlord in consequence of the tenant's failure to observe the rules of good husbandry no compensation for disturbance is payable, and under sub-s. 2 a certificate given by the county agricultural committee that the tenant is not cultivating according to these rules is conclusive on the point. Failure by a tenant to cultivate according to the rules gives the landlord the right to compensation for the deterioration of the holding on the termination of the tenancy.

([4]) It is to be observed that where the terms of a contract of tenancy are referred to the obligations implied by the custom of the country are included : see sub-s. 7.

([5]) This subsection must be borne in mind in construing this Act. Its effect is that references to provisions in the Agricultural Holdings Act, 1908, or the Corn Production Act, 1917, do not refer

§§ 33, 34. to these Acts as they originally stood, but as they stand now after the amendments made by the present Act.

Application to Scotland.

34. This Act shall apply to Scotland with the following modifications :—

(1) Unless the context otherwise requires—

(*a*) The expression "the Minister" (except in the section of this Act relating to the appointment, remuneration, and powers of Commissioners) means the Board of Agriculture for Scotland ;

9 & 10 Geo. 5, c. 97.

(*b*) A reference to the Land Settlement (Scotland) Act, 1919, shall be substituted for the reference to the Land Settlement (Facilities) Act, 1919, and a reference to the Arbitration (Scotland) Act, 1894, shall be substituted for the reference to the Arbitration Act, 1889 ;

57 & 58 Vict. c. 13.

(*c*) A reference to the sheriff shall be substituted for the reference to the county court ; a reference to act of sederunt shall be substituted for the reference to Rules of the Supreme Court ; and a reference to either division of the Court of Session shall be substituted for the reference to the Court of Appeal ;

(*d*) The expression "agricultural committee" means the body of persons constituted with respect to any area by the Board of Agriculture for Scotland under subsection (2) of section eleven of the Act of 1917 ;

(*e*) The expressions "the Agricultural Holdings Act, 1908," and "the Act of 1908," mean the Agricultural Holdings (Scotland) Act, 1908, and references to sections eleven, twenty-one and forty-two of the first-mentioned Act shall be construed as references to sections ten, twenty and twenty-nine respectively of the said Agricultural Holdings (Scotland) Act ;

8 Edw. 7, c. 64.

(*f*) "High Court" means "Court of Session," "receiver and manager" means "manager,"

" arbitrator " means " arbiter," and " costs " include " expenses " : § 34.

(2) The provision requiring that proceedings for an offence shall not be instituted except by the Minister shall not apply :

(3) In the application of subsection (4) of the section of this Act relating to compensation for disturbance " five years " shall be substituted for " two years," and in the application of subsection (6) of that section the expression " rent " means the rent after deduction of such an amount as the arbiter, failing agreement, may find to be equivalent to the amount (if any) annually payable by the landlord in respect of the holding by way of—

(*a*) any public rates, taxes, or assessments which in England are by law a charge on the occupiers of lands ; or

(*b*) any public rates or taxes or other public burdens the like whereof are not chargeable on lands in England :

(4) In subsection (11) of the section of this Act relating to compensation for disturbance, there shall be inserted after the word " amenity " the words " or any permanent grass park held for the purposes of a business or calling not primarily agricultural or pastoral, including that of butcher, cattle-dealer, and the like," and after the words " any such land," there shall be inserted the words " or grass park " :

(5) In the application of the section of this Act relating to compensation for disturbance in case of allotment gardens the expression " allotment garden " means an allotment under the Allotments (Scotland) Act, 1892, as amended or applied by any subsequent enactment, and a reference to the Small Holdings and Allotments Act, 1908, or to the Allotments and Cottage Gardens (Compensation for Crops) Act, 1887, shall be construed as a reference to the said Act of 1892 as so amended or applied : 55 & 56 Vict. c. 54.

(6) For references to becoming bankrupt or compounding with creditors, there shall be substituted references to

§ 34. becoming notour bankrupt or executing a trust deed for behoof of creditors :

(7) The sections of this Act relating to extension of tenancies under leases for a term of years and to notices to quit shall not apply, and in lieu thereof—

(*a*) Subsection (1) of section eighteen of the Act of 1908 shall, in the case of a lease entered into after the passing of this Act have effect as though for the words " three years " there were substituted the words " two years " ; and subsection (2) of the said section shall have effect as if at the end thereof the following words were added " and " in the case of any lease so renewed the period " of notice required to terminate the tenancy shall, " where the notice is given after the thirty-first " day of May, nineteen hundred and twenty-one, " be not less than one year nor more than two " years " ;

7 Edw. 7, c. 51. (*b*) The provisions of the Sheriff Courts (Scotland) Act, 1907, relating to removings shall, in the case of any holding to which section eighteen of the Act of 1908 applies, have effect subject to the provisions of that section as modified by paragraph (*a*) of this subsection :

(8) In the sections of this Act relating to compensation for disturbance and amendment of law as to improvements, for the words " a county borough," there shall be substituted the words " an area " :

(9) Section twenty-three of the Agricultural Holdings Act, 1908, shall apply to Scotland as if that section had been enacted in Part II. of this Act, with the substitution of small holdings, under the Small Landholders (Scotland) Acts, 1886 to 1919, for small holdings as defined by the 7 Edw. 7, c. 54. Small Holders and Allotments Act, 1907, and any reference in this Act to the said section twenty-three shall be construed as a reference to the said section as so applied :

(10) The section of this Act relating to amendment of

section forty of 8 Edw. 7. c. 28 shall not apply, and in lieu thereof— §§ 34–36.

(*a*) Section twenty-eight of the Act of 1908 shall have effect as if for the words "The powers by this "Act conferred on a landlord (other than that "of entering on a holding for the purpose of "viewing the state of the holding)," there were substituted the words "The powers by this Act "conferred on a landlord in respect of charging "the land";

(*b*) This subsection shall apply in relation to the exercise of any power whether before or after the commencement of this Act:

(11) In subsection (1) of the section of this Act relating to constitution of panel of arbitrators and provision as to arbitrators' remuneration, for the words "the Lord Chief Justice of England," there shall be substituted the words "the Lord President of the "Court of Session," and in subsection (2) of the same section for the words "registrar of the county court," there shall be substituted the words "auditor of the sheriff court."

Act not to apply to Ireland.

35. This Act shall not apply to Ireland.

Commencement, repeal, and short title.

36.—(1) This Act shall come into operation on the first day of January, nineteen hundred and twenty-one.

(2) Part I. of this Act shall be construed as one with the Act of 1917, and that Act and Part I. of this Act may be cited together as the Corn Production Acts, 1917 and 1920.

Part II. of this Act shall be construed as one with the Act of 1908, and the Agricultural Holdings Acts, 1908 and 1913, and Part II. of this Act may be cited together as the Agricultural Holdings Acts, 1908 to 1920, and the Agricultural Holdings (Scotland) Acts, 1908 and 1910, and Part II. of this Act as that Part applies to Scotland may be cited together as the Agricultural Holdings (Scotland) Acts, 1908 to 1920.

§ 36.

(3) The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule :

Provided that (without prejudice to the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals) this repeal shall not prejudice or affect—

52 & 53 Vict. c. 63.

(*a*) the operation of any notice served, or order made, before the commencement of this Act under the powers conferred by Part IV. of the Act of 1917, or the powers continued in operation by subsection (3) of section eleven of the Act of 1917 as amended by the Corn Production (Amendment) Act, 1918 ; or

(*b*) the rights of the Minister in respect of any land of which possession has been taken under the said powers before the commencement of this Act ; or

(*c*) the right of any person to recover compensation in respect of anything done or suffered under the said powers whether before or after the commencement of this Act ; or

(*d*) the right of any person to require any question arising out of any notice served, order made, or possession taken under the said powers before the commencement of this Act to be referred to arbitration.

(4) This Act may be cited as the Agriculture Act, 1920.

FIRST SCHEDULE. Sched. I.

MINOR AMENDMENTS OF AGRICULTURAL HOLDINGS ACT, 1908. Sect. 29.

Enactment to be Amended.	Nature of Amendment.
Section one – –	In subsection (1), after the word "Act," where that word first occurs, there shall be inserted the words "and the tenancy was entered upon "after the first day of January, nineteen "hundred and twenty one, whether the im- "provement was or was not an improvement "which he was required to make by the terms "of his tenancy"; and in paragraph (*a*) of subsection (2) after the word "improvement," there shall be inserted "whether expressly "stated in the contract of tenancy to be so "given or allowed or not"; and in paragraph (*b*) of subsection (2), there shall be inserted after the word "crops," where that word first occurs, the words "grown on and".
Section five – –	The words "in respect of any improvement "comprised in the First Schedule hereto" shall be omitted.
Section fifteen –	In subsection (1), after the word "hereto," where it first occurs, there shall be inserted the words "or in respect of compensation for disturb- "ance," and after the word "expended," there shall be inserted the words "and of all costs "properly incurred by him in obtaining the "charge."
Section twenty-three	In paragraph (iii) the words "for labourers" shall be omitted.
Section thirty-one –	After the word "compensation," there shall be inserted the words "for disturbance or".
First Schedule –	After "(16) Erection of wireworks in hop gar- "dens," there shall be inserted :— "(16*a*) Provision of permanent sheep-dip- ping accommodation; "(16*b*) In the case of arable land the re- moval of bracken, gorse, tree roots, boulders, or other like obstructions to cultivation." And in paragraph (26) there shall be added at end thereof the words "in so far as the value of the "temporary pasture on the holding at the time "of quitting exceeds the value of the tem- "porary pasture on the holding at the com- "mencement of the tenancy for which the "tenant did not pay compensation."
Second Schedule –	In paragraph 10, for the words "sooner than one "month or later than two months," there shall be substituted the words "later than one "month."

Sched. I.

MINOR AMENDMENT OF AGRICULTURAL LAND SALES (RESTRICTION OF NOTICES TO QUIT) ACT, 1919.

Enactment to be Amended.	Nature of Amendment.
Section one – –	After the word "shall," where it first occurs, insert "if the contract for sale is made by the "person by whom the notice to quit was "given." [1]

In the application of this Schedule to Scotland, the references to sections fifteen and thirty-one of the Agricultural Holdings Act, 1908, shall not apply; and subsection (1) of section thirteen of the Agricultural Holdings (Scotland) Act, 1908, shall be amended by the insertion after the word "hereto," of the words "or in respect of compensation for disturbance" and by the insertion after the words "or any part thereof," wherever occurring, of the words "and of the expense of executing and registering the same."

(1) This amendment is designed to avoid to some extent the effect of the decision of Russell, J., in *Robinson* v. *Nesbitt* (64 Sol. J. 291), that sect. 1 of the Agricultural Land Sales (Restriction of Notices to Quit) Act, 1919, making null and void notices to quit in the event of sales made during the pendency of the notice to quit, applies (1) where the sale is a sub-sale of an interest under a previous contract; (2) to equitable as well as legal owners; (3) where the notice is given by one person and the sale is by another; and (4) to the whole holding although the sale is only of a part thereof. Now the decision on point (3) will not apply, so that if A. agrees to sell land to B. subject to a tenancy and A. thereafter before completion of the contract gives the tenant a notice to quit, this notice will not be avoided by a subsequent sale by B.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
14 & 15 Vict. c. 25.	The Landlord and Tenant Act, 1851.	In section one, the words from "Provided always," to the end of the section.
8 Edw. 7, c. 28.	The Agricultural Holdings Act, 1908.	Subsections (2) and (3) of section six; section eleven; sub-section (2) of section thirteen; section twenty-two; in paragraph (iii) of section twenty-three the words "for labourers;" section twenty-seven; in subsection (1) of section forty the words "the powers by this Act "conferred on a landlord (other "than that of entering on a "holding for the purpose of "viewing the state of a hold-"ing)"; in subsection (2) of section forty the words "the "powers by this Act conferred "on a landlord (other than as "aforesaid)."
8 Edw. 7, c. 64.	The Agricultural Holdings (Scotland) Act, 1908.	Subsections (2) and (3) of section six; section ten; subsection (2) of section eleven; section twenty-four; in section twenty-eight the words "the powers by this "Act conferred on a landlord "(other than that of entering on "a holding for the purpose of "viewing the state of the "holding)."
10 Edw. 7, & 1 Geo. 5, c. 34.	The Small Holdings Act, 1910.	The whole Act.
4 & 5 Geo. 5, c. 7.	The Agricultural Holdings Act, 1914.	The whole Act.
6 & 7 Geo. 5, c. 38.	The Small Holding Colonies Act, 1916.	Subsection (2) of section one.
7 & 8 Geo. 5, c. 46.	The Corn Production Act, 1917.	Subsection (1) of section two and section nine; subsection (2) of section nineteen.
8 & 9 Geo. 5, c. 35.	The Corn Production (Amendment) Act, 1918.	The whole Act.

THE AGRICULTURE (AMENDMENT) ACT, 1921.

(10 & 11 Geo. 5, c. 17.)

An Act to explain proviso (4) *to section twelve of the Agriculture Act*, 1920, *and the First Schedule to that Act so far as that Schedule amends subsection* (1) *of section one of the Agricultural Holdings Act*, 1908, *and the Agricultural Holdings* (*Scotland*) *Act*, 1908, *and to remove doubt as to the procedure in arbitrations as to rent under section ten of the Agriculture Act*, 1920. [1st July, 1921.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

§§ 1, 2.

Explanation of certain provisions of Agriculture Act, 1920.

10 & 11 Geo. 5 c. 76.

8 Edw. 7. c. 28.

1.—(1) Where a demand in writing for arbitration as to the rent to be paid for a holding has been made for the purposes of section ten of the Agriculture Act, 1920 (which relates to compensation for disturbance), and has been agreed to, whether in writing or otherwise, the question as to the rent shall be referred to arbitration under the Agricultural Holdings Act, 1908.

(2) Proviso (4) to section twelve of the Agriculture Act, 1920 (which applies the provisions of that Act relating to compensation for disturbance to cottages on agricultural holdings), shall have effect, and be deemed always to have had effect, as though the words "recoverable summarily from the tenant" were therein substituted for the words "recoverable summarily by the tenant."

(3) The First Schedule to the Agriculture Act, 1920 (which sets out certain minor amendments to be made in the Agricultural Holdings Act, 1908), shall have effect, and be deemed always to have had effect, as though the words "In subsection (1) after the words 'in this Act' mentioned' there shall be inserted the words 'and, in a case where the contract of tenancy was made on or after the first day of January, nineteen hundred and twenty-one, then'" were therein substituted for the words "In subsection (1) after the word 'Act,' where that word first occurs, there shall be inserted the words 'and the tenancy was entered upon after the first day of January, nineteen hundred and twenty-one.'"

Short title and construction.

2.—(1) This Act may be cited as the Agriculture (Amendment) Act, 1921.

(2) This Act shall, so far as it relates to England and Wales, be construed as one with the Agricultural Holdings Acts, 1908 to 1920, and, so far as it relates to Scotland, be construed as one with the Agricultural Holdings (Scotland) Acts, 1908 to 1920, and this Act and those Acts respectively may be cited together as the Agricultural Holdings Acts, 1908 to 1921, or the Agricultural Holdings (Scotland) Acts, 1908 to 1921, as the case may be.

APPENDIX I.

FORMS FOR USE UNDER AGRICULTURAL HOLDINGS ACTS, 1908 TO 1920.

Forms.

1. *Consent by Landlord to the making of an Improvement mentioned in Schedule I., Part* 1, *of Agricultural Holdings Act*, 1908. Sect. 2 (1908).

To C. D. (*tenant*).

I, A. B. (*landlord*), hereby consent to the erection by you in a substantial and workmanlike manner of a brick and tiled cowhouse (*or making any other improvement, as the case may be*) on the farm of, &c., now occupied by you as my tenant.

Dated . (*Signed*) A. B.

2. *Consent by Agent to the same upon Terms.*

To C. D. (*tenant*).

I, E. F., the duly authorized agent of A. B. (*landlord*), in that behalf, hereby consent on behalf of the said A. B. to your making a road between and , on the farm of, &c., now occupied by you as his tenant, upon the terms that such road shall be in accordance with the plan and specification submitted to me and annexed hereto, and that you shall only be entitled to claim as compensation under the Agricultural Holdings Acts, 1908 to 1920, for the making of such road, the cost of materials to be carted free of charge by you, and one-half the cost of labour employed thereon.

Dated . (*Signed*) E. F. for A. B.

Forms. 3. *Consent by Landlord to the laying down of a Field in Permanent Pasture by a Yearly Tenant, and Agreement as to Compensation.*

AN AGREEMENT entered into the day of , BETWEEN A. B. (*landlord*), of, &c., of the one part, and C. D. (*tenant*), of, &c. of the other part.

Sect. 2. The said A. B. hereby consents to the laying down in permanent pasture by the said C. D. of the arable field known as Whiteacre, now occupied by the said C. D. as tenant of the said A. B., upon the terms following (that is to say) :—

1. The said C. D. hereby agrees to execute the above-mentioned improvement within one year from the date of this agreement in a proper and husbandlike manner. [*Specify, if thought desirable, the cleaning to be done, the proportion of various grass and clover seeds to be sown, and other particulars.*]

2. If the said C. D. shall execute the said improvement within such year as aforesaid, the said A. B., or the incoming tenant who may succeed the said C. D. in the occupation of Whiteacre, will pay to the said C. D. such sums as may be shown by production of vouchers and labour-book to have been expended by the said C. D. in purchasing grass seeds from Messrs. , seedsmen, for such laying down in pasture as aforesaid, and in labour employed for the same purpose, not exceeding £ per acre for cost of seeds, and £ per acre for labour. Provided always that the total sum payable under this agreement shall be subject to a deduction of per cent. for each year or part of a year during which the said C. D. shall continue in occupation of Whiteacre after the 29th day of September, 19 , and so that after the expiration of years from the 29th day of September, 19 , no compensation shall be payable to the said C. D. in respect of the said improvement.

3. The said field shall not be mown before the day of 19 . [*State any provisions for treatment and manuring of the field, &c., after it is laid down which may be thought desirable.*]

4. It is hereby agreed that the compensation hereby provided shall be substituted for and in lieu of any compensation which might otherwise be payable in respect of the said improvement under the Agricultural Holdings Acts, 1908 to 1920.

As WITNESS, the hands of the parties hereto. (*Signed*) A. B.
C. D.

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4. *Notice by Tenant of intention to execute an Improvement mentioned in Schedule I., Part* 2 (*a*).

Sect. 3.

To A. B. (*landlord*).

I, C. D. (*tenant*), hereby give you notice of my intention after two months and not more than three months from the date of this notice to begin to drain and to drain the field known as Whiteacre, and I propose to execute such drainage in the manner specified in the schedule hereto.

Dated . (*Signed*) C. D.

SCHEDULE.

The drains to be laid at a depth of 3 feet with 2½-inch pipes, at intervals of 30 feet, the main drains to be laid with 6-inch pipes and to discharge into the ditch on the south side of the above field, as shown on the plan annexed hereto (*or as the case may be*).

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5. *Agreement as to Terms of Compensation for an Improvement mentioned in Schedule I., Part* 2, *to be paid to a Tenant holding under a Lease* (*a*).

Sect. 3.

AN AGREEMENT entered into the day of , BETWEEN A. B. (*landlord*), of, &c., of the one part, and C. D. (*tenant*), of, &c., farmer, of the other part. IT IS HEREBY AGREED between the parties hereto as follows :—

1. The said C. D. will within one year from the date of this agreement under-drain in a proper and husbandlike

(*a*) These forms may be adapted for use in respect of any improvement mentioned in Schedule I., Part 1, which is directed to be treated as if it were comprised in Part 2 by the agricultural committee under section 15, sub-s. 1, of the Agriculture Act, 1920.

Forms. manner, and in the manner specified in the schedule hereto, and as shown in the plan annexed hereto, the field known as Whiteacre now occupied by the said C. D. as tenant under a lease dated.

2. The said A. B. or the incoming tenant will pay to the said C. D., on his giving up occupation of his farm on the determination of the said lease, one th of the cost of pipes and of labour employed, not exceeding *s.* per rod, in under-draining the said field (such cost to be proved by production of invoices and receipts).

3. The compensation payable under this agreement shall be substituted for and in lieu of any compensation which might otherwise be payable under the Agricultural Holdings Acts 1908 to 1920 in respect of such drainage.

As witness, &c.

Schedule.

(*To contain particulars of the work to be executed.*)

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6. *Clause to be inserted in Agreement or Lease dispensing with Notice and fixing the Terms of Compensation for an Improvement mentioned in Schedule I., Part 2.*

Sect. 3. It is hereby agreed between the parties hereto that the tenant may under-drain any of the field N^od^ in the Schedule to this agreement (*or* lease), and that the landlord or the incoming tenant will, on the tenant's quitting his holding on the determination of his tenancy, compensate him for his outlay in pipes and labour on any such under-draining done by him upon the said land, by payment according to the following scale :—

For draining done within 5 years previous to the determination of the tenancy.	The full amount of the outlay as certified.
For ditto within 6 years .	90 per cent. of such outlay.
For ditto within 7 years .	80 per cent. of ditto.
(*And so on.*)	

PROVIDED ALWAYS that in order to entitle the tenant to payment the outlay shall be approved and certified in writing by the landlord by his signature in the schedule hereto annexed (to be affixed on the Lady Day next following such outlay) and the landlord hereby agrees to affix his signature upon due proof of the said outlay.

AND IT IS HEREBY FURTHER AGREED that no notice of his intention to drain need be given by the tenant under sect. 3 of the Agricultural Holdings Act, 1908, and that the compensation payable under this agreement (*or* lease) shall be substituted for and in lieu of compensation under the said Act.

THE SCHEDULE above referred to.

Particulars and Date of Completion of Work.	Labour.	Pipes.	Total.	Signature.
	£ *s.* *d.*	£ *s.* *d.*	£ *s.* *d.*	

7. *Request to Landlord to consent to Improvement comprised in Schedule I., Part* 1, *with a view in case of refusal to an Application to the County Agricultural Committee for a direction under sect.* 11 *of Agriculture Act*, 1920.

Sect. 11 (1920).

To A. B. (*landlord*).

I, C. D. (*tenant*), hereby request you to consent in writing to my making the following improvement on Farm now in my occupation as your tenant, namely, the making of a permanent fence with oak posts and sawn rails on the south and east sides of Whitcacre (*or any other improvement mentioned in Schedule I., Part I., which comes within sect.* 15, *sub-s.* 1, *of the Act of* 1920), and I shall be obliged if you will signify your consent or your refusal to give the same within days from this date, and in the event of your refusing or failing to give such consent I propose to apply to the agricultural committee for this

Forms. county for a direction that the said improvement shall be treated for the purposes of the Agricultural Holdings Act, 1908, as if it were an improvement comprised in Part II. of the First Schedule to that Act.

Dated . (*Signed*) C. D.

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8. *Agreement for Compensation for Strawberry Plants and Fruit Bushes under Sect.* 4 *of Act of* 1908.

The tenant on quitting the holding at the expiration of the tenancy shall be allowed compensation, as hereinafter provided, for all lands planted with strawberries or fruit bushes [with the landlord's previous consent in writing] in lieu of and in substitution for compensation under the Agricultural Holdings Act, 1908, provided that whilst so planted the land shall have been well manured once at least in every two years with twenty-five cartloads of dung or other approved manure per acre, and provided also that the strawberry plants and fruit bushes shall have been properly tended, cleaned, and managed, it being hereby agreed that the sum of £20 per acre shall be taken to be the cost of bringing into cultivation and planting (including the cost of plants and bushes), and that the rate of compensation shall be as follows :—

	For Strawberries.	*For Fruit Bushes.*
If payable during the year of planting from Michaelmas to Michaelmas.	The whole cost of planting and plants.	The whole cost. of planting and plants.
If payable during the first year after planting.	Four-fifths of the whole cost.	Ditto.
If payable during the second year after planting.	Three-fifths of the whole cost.	Four-fifths of the whole cost.
If payable during the third year after planting.	Two-fifths of the whole cost.	Three-fifths of the whole cost.
If payable during the fourth year after planting.	Nil.	Two-fifths of the whole cost.
Afterwards	Nil.	The cost of the plants only.

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9. *Demand by Landlord for Arbitration as to the Rent of the Holding.*

To C. D. (*tenant*). Sect. 10, sub-s. 1 (1920).

SIR,—I hereby demand that the question of the rent to be paid as from the day of next (*a*) for farm in the county of held by you as tenant thereof from me be referred to arbitration and I request that you will on or before the day of next (*b*) (*or* within twenty-one days from this date) signify to me your agreement or refusal to agree to such demand.

Dated . A. B. (*landlord*).

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10. *Demand by Tenant for Arbitration as to the Rent of the Holding.*

To A. B. (*landlord*). Sect. 10 sub-s. 3 (1920).

SIR,—I hereby demand that the question of the rent to be paid as from the day of next (*a*) for farm in the county of held by me as tenant thereof from you be referred to arbitration and I request that you will on or before the day of next (or within twenty-one days from this date) (*b*) signify to me your agreement or refusal to agree to such demand.

Dated . (*Signed*) C. D. (*tenant*).

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11. *Notice to Landlord of intention to remove Fixture or Building* (*c*).

To A. B. (*landlord*). Sect. 2 (1908).

TAKE NOTICE that I intend after one month from this day to remove the milk cooling apparatus erected by me on the farm of, &c., now held by me as your tenant.

Dated . (*Signed*) C. D.

(*a*) The demand for an alteration in rent must be as from the next ensuing date at which the tenancy could have been terminated by notice to quit.

(*b*) The tenant or landlord (as the case may be) must be given a reasonable time to agree to a demand for arbitration as to rent. A period of 21 days is suggested as a reasonable time.

(*c*) This notice must be given at least one month before the removal.

Forms.

12. *Notice to Tenant to quit Part of his Holding.*

Sect. 23 (1908).

To C. D. (*tenant*).

I hereby give you notice to quit the field of Whiteacre (being part of the land now held by you as my tenant) on the day of 19 , and require you to deliver up possession of the same field to me on that day—as I intend to resume possession of the said field for the purpose of planting of trees (*or any other improvement specified in sect. 23 or in the resumption clause in the contract of tenancy*), and I hereby offer to reduce your rent by the sum of £ from the day above-mentioned on account of the resumption by me of the said field.

Dated . (*Signed*) A. B.

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13. *Notice by Tenant accepting Notice to Quit Part of Holding as Notice for the entire Holding* (*a*).

Sect. 23 (1908).

To A. B. (*landlord*).

I have received your notice to me, dated the day of , to quit Whiteacre on the day of , 19 , and I hereby give you notice that I accept the said notice from you as a notice to quit the whole of the farm of, &c., now held by me as your tenant, and I intend to deliver up possession of the same farm on the said day of , 19 .

Dated . (*Signed*) C. D.

---

14. *Notice by Landlord to Tenant to quit holding for reason which will disentitle the Tenant to compensation for disturbances.*

Sect. 10, sub-s. 1 (1920).

To C. D. (*tenant*).

Sir,—I hereby give you notice to quit and deliver up possession of the farm land and premises situate at in the county of which you hold of me as tenant thereof on the day of next [*or* at the expiration of

(*a*) Applicable when the notice is given under the powers of sect. 23, but not when it is given under a power in the contract of tenancy.

twelve months from the end of the now current year of your tenancy], the reason for giving this notice to quit being that you are not cultivating the holding according to the rules of good husbandry [*or state such other reason mentioned in sect.* 10, *sub-s.* 1, *of the Agriculture Act*, 1920, *as is applicable*]. **Forms.**

Dated . (*Signed*) A. B. (*landlord*).

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15. *Notice by Tenant requiring question as to Cultivation according to the rules of good husbandry to be referred to arbitration* (*a*).

To the Agricultural Committee for the county of . Sect. 10, sub-s. 2 (1920).

I, C. D., the tenant of farm in this county, require that the question as to whether the said holding is being cultivated according to the rules of good husbandry to be referred to an arbitrator.

Dated . (*Signed*) C. D.

---

16. *Notice by Landlord to terminate Tenancy upon expiration of a term of years* (*b*).

To C. D. (*tenant*). Sect. 13 (1920).

Sir,—Take notice that I intend to terminate the tenancy of Farm in the county of held by you for a term of 21 years from the day of 19 , under an Indenture of Lease dated the day of , and made between (*name parties*) on the expiration of the said term on the day of next, and I require you to quit and deliver up possession of the said farm accordingly.

Dated . *Signed*) A. B. (*landlord*).

(*a*) Notice to be given within seven days after the notification of grant of a certificate as to cultivation by the Committee.

(*b*) To be given not less than one year, nor more than two years before the date fixed for the expiration of the term.

Forms. 17. *Clause to be inserted in Lease of Market Garden to avoid Liability to compensate for Fruit Trees and Fruit Bushes.*

IT IS HEREBY AGREED that such part only of the premises hereby demised as shall, at the determination of the tenancy hereby created, be planted with strawberry plants, asparagus, rhubarb, or other vegetable crops which continue productive for two or more years (without fruit trees or fruit bushes), is let and shall be treated as a market garden, to the intent that the tenant may be entitled, at the determination of the tenancy, on quitting his holding, to obtain from the landlord compensation in respect of such part only of the said premises under the provisions of the Agricultural Holdings Act, 1908, s. 42.

---

18. *Clause allowing removal of permanent Market Garden Crops but negativing right to treat as a Market Garden.*

Any asparagus, rhubarb, or other perennial crop, or any fruit bushes planted by the tenant, may be removed by the tenant at or before the termination of the tenancy, he making good and replacing the surface soil disturbed by such removal: Provided always that the landlord or his incoming tenant may elect by notice in writing not less than one month before the termination of the tenancy to take any such plants or bushes by valuation; Provided also and it is hereby agreed and declared that nothing herein contained shall be deemed to be a consent by the landlord within the meaning of the Agricultural Holdings Act, 1908, to an improvement by the making of any garden or the planting of any orchard or fruit bushes, or to an agreement by the landlord that the holding, or any part thereof, shall be let or treated as a market garden.

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19. *Clause prescribing System of Cultivation of Arable Land enforceable only in last Year of Tenancy, but enabling the Landlord, in case of Deviation from System in previous Years, to claim for consequent Injury or Deterioration (if any) under sect. 26, sub.-sect. 2, of Agricultural Holdings Act*, 1908.

(*The tenant agrees*) to cultivate the arable land in the four-course rotation, having annually one-fourth thereof in wheat, one-fourth in roots, green crop fed off, or fallow, one-fourth in barley or oats, and one-fourth in clover or seeds, vetches or beans, of which last-named fourth not less than one half shall be in clover or seeds, and so that no two white straw crops shall immediately succeed each other (*a*). Sect. 26 (1908).

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20. *Clause not prescribing any particular System of Cultivation except for the last Year, but making the Tenant liable for Injury or Deterioration.*

(*The tenant agrees*) to cultivate and manage the holding according to the rules of good husbandry and the best standard or system of farming, and so as not to injure or deteriorate the holding, and to leave the same clean and in good heart and condition in the manner set out in the First Schedule hereto (*b*). Sect. 26 (1908).

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21. *Clause forbidding sale of Hay, Straw, &c. in last Year of Tenancy, and prescribing for Return of Manurial Equivalent.*

(*The tenant agrees*) not to sell off or remove from the farm any hay, straw, roots, or green crops during the last year of the tenancy, and not to sell or remove any such produce in any previous year, without returning and applying to the holding within months from the sale or removal of Sect. 26 (1908).

(*a*) This clause will require modification according to the system of cropping usually adopted on well-cultivated farms in the district.

(*b*) The First Schedule will prescribe the state of cultivation to be adopted in the last year, *e.g.*, one-fifth in wheat, one-fifth in roots or fallow, one-fifth in barley or oats, two-fifths in seeds.

Forms.

such produce good rotten dung, or guano, bone manure, or other approved manurial substance to the value of *s.* for every ton of hay, *s.* for every ton of straw, and *s.* for every ton of roots or green crop so sold off or removed, such manure or manurial substance to be applied so far as possible to the particular lands the produce whereof shall have been sold or removed. And to keep true accounts and vouchers, which shall be produced to the landlord or his agent when required, of all such produce sold off or removed, and of the equivalent in manure returned to the farm.

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22. *Agreement defining the Manurial Equivalent to be applied under sect.* 26 *of Agricultural Holdings Act,* 1908, *when a Course of Cultivation is laid down.*

IT IS HEREBY AGREED that in order to protect the holding from injury or deterioration, the full equivalent value of crops grown out of or contrary to the rotation hereinbefore agreed to, and sold off or removed, and of crops and produce sold off or removed in contravention of this agreement (*or* lease), is as set out in the Schedule hereto, and the tenant agrees to apply such equivalent in the event of any breach by him of the provisions of this agreement (*or* lease) as to rotation and sale of produce in exercise of the powers in that behalf conferred upon him by sect. 26 of the Agricultural Holdings Act, 1908, or in default to pay to the landlord the market value of such equivalent, if required, as damages in respect of injury or deterioration of the holding.

---

23. *Clause requiring an Account of Croppings, Sales, and Return of Manures to be kept* (*a*).

(*The tenant agrees*) to keep and produce at any time for inspection on the request of the landlord or his agent a true

(*a*) This clause may be useful as tending to protect the land against injury or deterioration from cross-cropping, or sale of hay, straw, &c.

account of all croppings upon the farm, and of all hay, straw, roots and green crops sold off or removed from the farm, and of the dates of removal thereof, and also a record of the provision made for the return to the farm of the full equivalent manurial value of all hay, straw, roots and green crops so sold off or removed, and of the provision made to protect the farm from injury or deterioration in consequence of the exercise by the tenant of his rights as to cropping and sale of produce under sect. 26 of the Agricultural Holdings Act, 1908. Forms.

24. *Clause giving the Landlord the Right to claim Compensation for Injury and Deterioration.*

The landlord shall be entitled to compensation from the tenant in respect of any breach by the tenant of any of the agreements on his part herein contained, and for any injury or deterioration of the holding caused by the system of cropping the arable land practised by the tenant or by the sale or removal of any produce of the holding or otherwise, and such compensation shall be deducted from any sum payable to the tenant at the determination of the tenancy by the landlord or incoming tenant, or shall be recoverable otherwise as and at such time as the landlord may deem fit.

25. *General Form of Tenancy Agreement.*

AGREEMENT made the day of 19 , BETWEEN A. B. of, &c. (hereinafter called "the landlord," which expression shall include the person or persons for the time being entitled to receive the rent hereby reserved where the context so admits) of the one part and C. D. of, &c. (hereinafter called "the tenant," which expression shall include his executors, administrators, and assigns where the context so admits) of the other part.

The landlord agrees to let and the tenant agrees to take the buildings, farm, and land particularised in the schedule hereto commonly known as Farm in the Parish of (hereinafter called "the farm") subject to the exceptions

Forms. and reservations hereinafter mentioned from the day of 19 , from year to year until the tenancy shall be determined by either party giving to the other twelve calendar months' notice in writing, to expire at the end of any year of tenancy.

The rent to be £ per annum payable on the usual quarter days without any deduction except for land tax and landlord's property tax.

Exceptions and Reservations by the Landlord.

1. All mines, minerals, stone, gravel, and sand with right of entry for the landlord and all persons authorised by him to get and work the same, making reasonable compensation for all damage done.

2. All timber and other trees, pollards, saplings, and underwood with right of entry for the landlord and all persons authorised by him to mark, cut, and carry away the same, making reasonable compensation for all damage done.

3. Subject to the Ground Game Act, 1880, and the Ground Game (Amendment) Act, 1906, all game, ground or otherwise, including wildfowl and nests and eggs, with right for the landlord and all persons authorised by him to preserve, hunt, and shoot. (*Omit this clause if sporting rights are not reserved.*)

4. Power to resume possession of any portion of the farm not exceeding five acres in any one year for building, mining, road-making, or any purpose specified in sect. 23 of the Agricultural Holdings Act, 1908, not being the use of the land for agriculture, on giving two months' notice in writing to the tenant.

Agreements by the Tenant.

1. To pay the rent and all rates, taxes, assessments, and outgoings, except landlord's property tax and tithe rent charge.

2. Not to assign or underlet the farm or any part thereof without the landlord's consent in writing.

3. To preserve all timber and underwood.

4. To maintain and keep in good tenantable repair excepting casualties by tempest or fire not owing to the misconduct of the tenant, his servants or agents) the farmhouse, cottages, and buildings (except roofs and main walls), fixtures, fences, hedges, gates, roads, bridges, and drinking places for cattle or sheep.

5. To cleanse and scour all ditches, watercourses, open drains, and the mouths and outfalls of all underdrains.

6. Not to break up any pasture or meadow land and not to mow any grass land more than once in any one year or more than two years in succession without sufficiently manuring the same, and to keep down all nettles, thistles, tussocks, and to remove mole- and ant-hills.

7. To spread annually on the land all manure made on the farm and at the end of the tenancy to leave any unused manure in convenient heaps without compensation except for labour.

(*Add such clauses as may be required for securing the proper cultivation of the farm, see Forms* 19, 20, 21, 22, 23 ; *also clause allowing pre-entry according to the custom of the country where the farm is situate.*)

Agreements by the Landlord.

1. To keep the main walls and roofs of the farmhouse and buildings required for the working of the farm in good and substantial repair. (*State other repairs, if any, for which landlord is responsible, and add such clauses as may be required as to compensation payable by the landlord for improvements, see Forms* 6, 8 ; *also as to holding over after determination of the tenancy for realisation of crops of the last year.*)

General Conditions.

1. The landlord shall have power to re-enter and determine the tenancy on non-payment of rent for twenty-one days after the same shall have become due (whether legally demanded or not), or on breach of any of the conditions or agreements herein contained and on the tenant's part to be observed and performed, and also in

Forms.

case the tenant shall become bankrupt or any execution shall be levied upon any of the farm stock, implements, or effects on the premises.

2. If at any time during the tenancy hereby created either the landlord or the tenant shall require a record of the conditions of the holding to be made permanent to Section 26 of the Agriculture Act, 1920, the cost of making such record shall be borne by the party requiring the same.

3. (*Insert Form* 24.)

4. (*Insert Forms* 31, 35 *if required.*)

The Schedule above referred to.

(*To contain particulars and acreage of the holding.*)

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26. *Notice of Claim by Tenant for Compensation for Improvements and other matters* (*a*).

To A. B. (*landlord*).

Sect. 18, sub-s. 2 (1920).

TAKE NOTICE that I claim under and in accordance with the Agricultural Holdings Acts, 1908 to 1920, to be paid, on the determination of my tenancy of Farm, the compensation to which I am entitled under the said Acts or the custom of the country for the improvements executed by me during my tenancy of the said farm. The particulars of my claims for improvements are as follows :— (*here give particulars, as*)

1. £ for cowshed erected by me in 1920 with your consent.

2. £ being cost of labour and pipes in draining of Blackacre meadow in 19 .

3. £ for unexhausted value of tons of basic slag applied by me to Whiteacre in 19 .

4. £ for manurial value of tons of decorticated cotton cake consumed by my cattle in years 1920 and 1921.

I also claim compensation for disturbance, viz. :

£ - being one year's rent of the farm (*or specify item of loss and expenses incurred, if exceeding one year's rent*).

I further claim to be paid by you for breach of contract under custom and otherwise as mentioned below Forms.

1. £ for neglect to keep the main walls and roofs of farm buildings in repair according to the contract of tenancy.
2. £ for costs of seeds, manure and acts of husbandry on acres of root crops.
3. £ for ploughing of acres of land in course for wheat.
4. £ for tons of hay and £ for loads of straw left by me on the holding to be paid for at consuming price according to the custom of the country.

Dated . (*Signed*) C. D.

---

27. *Notice of Claim by Market Gardener* (*a*).

To A. B. (*landlord*).

Take Notice that I claim under the Agricultural Holdings Acts, 1908 to 1920, to be paid by you, on the determination of my tenancy of Farm, compensation in respect of the following matters :—(*here give particulars, as*)

1. 100 Standard apple and 60 standard plum trees planted in 1916 in field.
2. 300 Gooseberry and 300 currant bushes planted in 1917 in field.
3. Strawberry plants on acres, planted in 1919.
4. Rhubarb plants on acres, planted in 1918 and 1919.
5. tons of purchased manure applied during 1919 and 1920.

(*Signed*) C. D.

(*a*) Particulars of claim to be given to the landlord before the expiration of two months from the termination of the tenancy.

Forms. 28. *Notice by Landlord of Claim for Waste or Breach of Covenant* (*a*).

Sect. 18 (1920).

To C. D. (*tenant*).

TAKE NOTICE that I claim under the Agricultural Holdings Acts, 1908 to 1920, to be paid by you as outgoing tenant of farm for waste and breach of contract and otherwise as mentioned below :—(*here give particulars, as*)

1. £ for ploughing the grass field of Whiteacre in 1919.
2. £ for injury or deterioration of arable land by taking more than two white straw crops in succession in the years 19 19 and 19 from Blackacre in breach of contract.
3. £ for neglect to keep fences in repair.
4. £ for neglect to return to the holding the manurial equivalent of hay and straw sold off in breach of contract.
5. £ for acres excess of coming fallow allowed.
6. £ for failure to keep the homestead and farm-buildings in repair according to covenant in lease.

Dated . (*Signed*) A. B.

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29. *Notice of Damage by Game* (*b*).

Sect. 10, sub-s. 2 (1908).

To A. B. (*landlord*).

TAKE NOTICE that my growing wheat in Blackacre (*or as the case may be*) has been damaged by pheasants, and that I intend to claim compensation for the same from you, under the Agricultural Holdings Act, 1908 to 1920. You are at liberty to inspect the damage done at any time.

Dated . (*Signed*) C. D.

(*a*) Particulars of claim to be given to the tenant before the expiration of two months from the termination of the tenancy.

(*b*) To be given as soon as may be after the damage is first observed.

30. *Notice of Claim for Compensation for Damage by Game* (*a*). Forms.

To A. B. (*landlord*).

TAKE NOTICE that I claim compensation for damage by game to my crops, the particulars whereof are stated below : (*here give particulars, as*)

Particulars.	£	*s.*	*d.*
Damage by pheasants in November, 1919, to six acres of growing wheat in Blackacre, at 1*l.* per acre	6	0	0
Damage by pheasants in July, 1919, to three acres of barley in Whiteacre, at 2*l.* per acre..	6	0	0
	£12	0	0

Dated . (*Signed*) C. D.

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31. *Clause substituting another Period of Twelve Months for the Calendar Year as the Period for making a Claim on Account of Damage by Game.*

The period of twelve months within one month after the expiration of which any claim for damage by game must be made under sect. 10 of the Agricultural Holdings Act, 1908, shall be the twelve calendar months ending on the day of in any year. Sect. 11, sub-s. 2.

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32. *Notice of Intention to claim Compensation for Disturbance* (*b*).

To A. B. (*landlord*). . Sect. 10 (1920).

TAKE NOTICE that I intend upon quitting my holding, under the notice to quit given by you, to claim compensa-

(*a*) To be given within one month after the expiration of the calendar year, or other period of twelve months agreed upon, in respect of which the claim is made.

(*b*) This notice must be given to the landlord not less than one month before the termination of the tenancy.

Forms. tion for disturbance from you under the provisions of sect. 10 of the Agriculture Act, 1920. You are at liberty at any time within the next fortnight to inspect and make a valuation of my live and dead stock, which are to be sold by auction on the day of .

Dated . (*Signed*) C. D.

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33. *Agreement between Landlord and Tenant after Claim for Compensation.*

AGREEMENT entered into on the day of , BETWEEN A. B. (*landlord*) of the one part and C. D. (*tenant*), of, &c., of the other part. WHEREAS the said C. D. has quitted the farm lately held by him as tenant of the said A. B., AND WHEREAS the said C. D. has claimed against the said A. B. under the Agricultural Holdings Acts, 1908 to 1920, for compensation for improvements effected on the said farm by him and for acts of husbandry and other matters, and also for compensation for unreasonable disturbance under sect. 10 of the Agriculture Act, 1920, [AND WHEREAS the valuers appointed by the said A. B. and C. D. respectively have assessed the value of such claims of the said C. D. according to the particulars in the first part of the Schedule hereto amounting in all to £ the sum of £ ,] AND WHEREAS the said A. B. has claimed against the said C. D. for waste and breach of contract and for injury and deterioration of the holding, [AND WHEREAS the said valuers have assessed the value of such claims of the said A. B. according to the particulars in the second part of the Schedule hereto amounting in all to £ the sum of £ ,] IT IS HEREBY MUTUALLY AGREED between the said A. B. and the said C. D. that there shall not be any arbitration between them under the said Acts, AND that the said A. B. shall pay to the said C. D. £ in full satisfaction of all compensation and other sums payable to him under the said Act or otherwise, after allowing for the claims made by the said A. B. as aforesaid in the following instalments (that

is to say), £ on Michaelmas Day, 19 , and £ on the 1st of January, 19 , AND that the said A. B. shall be at liberty to deduct the balance of £ being rent owing to him by the said C. D. from the said sum of £ , and shall make no further claim against the said C. D. in respect of waste or breach of contract or otherwise howsoever. Forms.

AS WITNESS the hands of the above parties.

(*Signed*) A. B.
C. D.

The Schedule above referred to.

PART I.

(*To contain particulars of sums agreed in respect of the tenant's claims.*)

PART II.

(*To contain particulars of sums agreed to in respect of the landlord's claims.*)

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34. *Consent by Landlord to the Payment of Compensation for Improvements by the Incoming to the Outgoing Tenant.*

To C. D. (*incoming tenant*). Sect. 7.

I, A. B. (*landlord*), hereby consent to your paying the sum of £ to E. F. (*outgoing tenant*), being the sum payable by me to the said E. F. for compensation for improvements under or in pursuance of the Agricultural Holdings Acts, 1908 to 1920, and under an award dated, &c., and made by, &c. (*or* under an agreement dated, &c., and made between me and the said E. F.).

Dated . (*Signed*) A. B.

Forms. 35. *Clause for insertion in Lease or Agreement for Settlement of Claims for Compensation, &c., by Valuation and for Arbitration in Default of Agreement* (*a*).

Sect. 13. IT IS HEREBY AGREED that, all valuations in respect of any compensation, damages, or dilapidations to which either party may claim to be entitled under this agreement (*or* lease), or otherwise in respect of the tenancy hereby created, shall be referred to two valuers appointed respectively by the landlord and tenant in the usual manner, and in the event of any difference between them the matter or matters in dispute shall be settled by arbitration, in the manner provided by the Agricultural Holdings Acts, 1908 to 1920.

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36. *Appointment of Valuer to act on behalf of Landlord.*

I, A. B., of, &c. (*landlord*), hereby appoint Mr. , of , to act in my behalf as valuer in the valuation of all claims by Mr. C. D., the outgoing tenant of Farm, against me or the incoming tenant, whether arising under the Agricultural Holdings Acts, 1908 to 1920, or the tenancy agreement, or otherwise, and in the valuation of my claims against the said C. D., whether arising under the said Act, tenancy agreement, or otherwise, and I authorize the said Mr. on my behalf, according to the best of his skill, discretion, and judgment, to value, settle, agree, or compromise with the valuer appointed on the said outgoing tenant's behalf the amount of such claims, wholly or in part, and in case of any difference or dispute arising between the said valuers in respect of any of the said claims, to agree with the said outgoing tenant's valuer upon the appointment of an arbitrator to determine the

(*a*) Under sect. 18 of the Agriculture Act, 1920, all questions and differences between landlord and tenant are referred to arbitration. The arbitration clause which was usually inserted in leases and tenancy agreements before this Act is therefore no longer necessary, but this clause, which provides for the usual preliminary valuation, may, if thought desirable, be inserted.

same and, in default of agreement, to apply to the Ministry of Agriculture and Fisheries to appoint an arbitrator. **Forms.**

Dated . (*Signed*) A. B.

37. *Appointment of Valuer to act on behalf of Outgoing Tenant.*

I, C. D., of (*tenant*), hereby appoint Mr. of to act in my behalf as valuer in the valuation of all claims by me, as outgoing tenant of Farm, against A. B., of , the landlord of the said farm, or the incoming tenant thereof, whether arising under the Agricultural Holdings Acts, 1908 to 1920, or the tenancy agreement, or otherwise, and in the valuation of all claims by the said A. B. or incoming tenant against me, whether arising under the said Act, tenancy agreement, or otherwise, and I authorize the said Mr. on my behalf, according to the best of his skill, discretion, and judgment, to value, settle, agree, or compromise with the valuer appointed on behalf of the said A. B. the amount of such claims wholly or in part, and in case of any difference or dispute arising between the said valuers in respect of any of the said claims, to agree with the said valuer appointed on behalf of the said A. B. upon the appointment of an arbitrator to determine the same, and in default of agreement to apply to the Ministry of Agriculture and Fisheries to appoint an arbitrator.

Dated . (*Signed*) C. D.

38. *Appointment of Arbitrator to deal with Claims upon determination of Tenancy.*

WE HEREBY APPOINT E. F., of , to be arbitrator for the purpose of settling the differences and questions arising between us under the Agricultural Holdings Acts, 1908 to 1920, and otherwise, upon the determination of the contract of tenancy of Farm, lately held by the undersigned C. D. as tenant of the undersigned A. B. Sched. 2, r. 1 (1908).

Dated . (*Signed*) A. B.
C. D.

Forms. 39. *Appointment of Arbitrator to determine Compensation for Damage by Game during Currency of Tenancy.*

The undersigned A. B. and C. D. hereby appoint E. F., of , to be arbitrator between them for the purpose of determining the compensation (if any) payable under section 10 of the Agricultural Holdings Act, 1908, by the said A. B. to the said C. D. in respect of damage from game to the crops of the said C. D. on Farm, held by him as tenant of the said A. B. during the year ending the day of , 19 .

Dated . (*Signed*) A. B.
C. D.

---

40. *Notice requiring Arbitrator to act.*

Sched. 2, r. 2 (1908).

To E. F. (*arbitrator*).

TAKE NOTICE that I require you to act within seven days from the receipt of this notice in the matter of the arbitration between C. D. and myself under the Agricultural Holdings Acts, 1908 to 1920, in which you have been appointed arbitrator.

Dated . (*Signed*) A. B.

---

41. *Formal parts of Special Case stated by Arbitrator for opinion of County Court.*

No. of 19 .

Sched. 2, r. 9 (1908).

In the County Court of holden at .

In the matter of the Agricultural Holdings Acts, 1908 to 1920,

and

In the matter of an Arbitration between
C. D.,
of, &c., Tenant,

and

A. B.,
of, &c., Landlord.

SPECIAL CASE

stated for the opinion of the Court by E. F., arbitrator in the above-mentioned arbitration :—

1. (*State material parts of lease or tenancy agreement.*)
2. (*State material facts as proved in the arbitration.*)
3. (*State contentions of tenant.*)
4. (*State contentions of landlord.*)

The questions of law submitted for the opinion of the Court are :—

(*State the questions arising in numbered paragraphs.*)

Dated . (*Signed*) E. F.

---

42. *Form of Oath for Witness before Arbitrator.*

I swear by Almighty God that I will true answer make to all such questions as shall be asked me touching the matters in question in this arbitration.

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43. *Form of Affirmation for Witness objecting to be sworn.*

I, A. B., solemnly, sincerely and truly affirm and declare that I will true answer make to all such questions as shall be asked me touching the matters in question in this arbitration.

APPENDIX II.

Rules.

COUNTY COURT RULES AND FORMS (*a*).

ORDER OF THE LORD CHANCELLOR, DATED NOVEMBER 27, 1900, AS TO COSTS.

I, the Right Honourable Hardinge Stanley, Earl of Halsbury, Lord High Chancellor of Great Britain, do, by virtue of the powers vested in me by the twenty-seventh section of the Agricultural Holdings (England) Act, 1883, hereby prescribe the following scales of costs for proceedings in the County Court under the Agricultural Holdings (England) Acts, 1883 to 1900, and of costs to be taxed by registrars of County Courts under the said Acts (that is to say):

1. Costs of proceedings in the County Court under the said Acts shall be taxed according to such one of the scales of costs applicable to actions in the County Court as the judge shall direct, and in default of such direction they shall be taxed under column B of such scales.

2. Costs of and incidental to an arbitration and award awarded by an arbitrator under the said Acts shall be taxed according to such one of the scales of costs applicable to actions in the County Court as the arbitrator shall direct, and in default of such direction they shall be taxed under column B of such scales (*b*).

Dated this 27th day of November, 1900.

(*a*) See sect. 49 of the Agricultural Holdings Act, 1908 (*ante*, p. 99), which provides that all Orders, Rules, scales of costs, &c., issued under any enactment thereby repealed shall have effect as if they had been made under that Act.

(*b*) Column B of the higher scale of County Court Costs relates generally to cases where the subject-matter or sum recovered exceeds 20*l.* and does not exceed 50*l.* See Annual County Courts Practice, 1921, vol. i., p. 935.

COUNTY COURT FEES.

Schedule A.

41. For the hearing of a special case stated under the Agricultural Holdings (England) Act, 1908, and Order XL., Rule 3, twenty shillings ; to be paid by the party filing the case, or on whose application the case is stated.

42. In proceedings under the Agricultural Holdings (England) Act, 1908, and Order XL., Rule 4, for the removal of an arbitrator, or to set aside an award, the same fees shall be paid as would be payable in an action for a sum of twenty pounds.

Schedule B.

PART I.

Registrar's Fees.

24. On proceedings under the Agricultural Holdings (England) Act, 1908, or the Allotments and Cottage Gardens Compensation for Crops Act, 1887, and Order XL.—

	£	*s.*	*d.*
On every application for the appointment or change of a guardian under Order XL., Rule 1, including drawing, sealing, and issuing the order on such application	0	5	0
For filing every application or special case under Order XL., Rule 2 (1, 2), Rule 3 (2), or Rule 7 (1)	0	2	6
For every order for short service under Order XL., Rule 2 (3) or Rule 7 (4), including copy for service	0	2	6
If more than one copy of such order to be served, for each additional copy, per folio	0	0	4
For every notice under Order XL., Rule 3 (3), to be paid by the party filing the case, or on whose application the case is stated	0	2	6
For every notice under Order XL., Rule 4 (7), to be paid by the applicant	0	2	6

		£	s.	d.
Rules.	For filing every affidavit under Order XL., Rule 2 (4), Rule 4 (12), or Rule 7 (4)	0	1	0
	When hearing takes place at another Court under Order XL., Rule 4 (16), to the registrar of such other Court, for his duties under that rule	0	10	0
	For settling, sealing, and filing every order under the following rules or any of them, including copy for service :—			
	Order XL., Rule 2 (6) Order XL., Rule 3 (5), to be paid by the party filing the case, or on whose application the case is stated Order XL., Rule 4 (15) Order XL., Rule 7 (5)	0	5	0
	If more than one copy of such order to be served, for each additional copy, per folio	0	0	4
	For every notice under Order XL., Rule 5 (2), to be paid by the applicant	0	2	6
	For every taxation of costs of an arbitration and award, including certificates of result of taxation, where the amount to be taxed does not exceed 50*l.*	0	10	0
	And for every additional 50*l.* or fractional part of 50*l.*	0	10	0
	For every taxation of costs on an application for the removal of an arbitrator, or to set aside an award	0	5	0

Costs.

Drawing.	A.			B.			C.		
	£	s.	d.	£.	s.	d.	£	s.	d.
Item 32. Any statement under the Agricultural Holdings Act, including necessary copies	0	3	0	0	5	0	0	6	8
Or per folio beyond three		—		0	1	0	0	1	0

THE COUNTY COURT (AGRICULTURAL HOLDINGS) RULES, 1909.

ORDER XL.

Ord. XL.

THE AGRICULTURAL HOLDINGS ACT, 1908.

Appointment or change of guardian. 8 Edw. 7, c. 28, s. 32.

1.—(1) An application for the appointment of a guardian of an infant or person of unsound mind not so found by inquisition, for the purposes of the Agricultural Holdings Act, 1908 (in this Order referred to as the said Act), or for the revocation of any such appointment and the appointment of another guardian, shall be intituled in the matter of the Act and of the arbitration or intended arbitration, and shall be made in accordance with the rules for the time being in force as to interlocutory applications.

Affidavit. [*Conf.* Forms 50, 51.]

(2) Any such applications shall be supported by affidavit, and accompanied by a written consent of the proposed guardian to act as such.

Applications *ex parte*.

(3) An application on behalf of an infant or person of unsound mind for the appointment of a guardian may be made *ex parte*.

Applications on notice. [*Conf.* Forms 54, 55, 56.]

(4) An application by any other person interested for the appointment of a guardian of an infant or person of unsound mind shall be made to the judge on notice in writing; and such notice, together with a copy of the affidavit in support of the application, shall three clear days at least before the day in such notice named for hearing the application be served on the person with whom or under whose care such infant or person of unsound mind is residing, and also, in the case of an infant not residing with or under the care of his father or guardian, on the father or guardian (if any) of such infant: Provided that the registrar may dispense with such last-mentioned service. Service may be effected in accordance with the provisions of section 45 of the said Act.

Rules.

8 Edw. 7, c. 28, s. 45.

(5) An application for the revocation of the appointment of a guardian and the appointment of another guardian shall be made to the judge on notice in writing, which shall be served on the guardian proposed to be removed, or his solicitor, in accordance with the last preceding paragraph.

Application for order to state case.

8 Edw. 7, c. 28, Sched. 2, par. 9.

Form 415.

2.—(1) An application to the judge under the said Act for an order directing an arbitrator to state in the form of a special case for the opinion of the Court any question of law arising in the course of the arbitration shall be made in Court on notice in writing, which shall be intituled in the matter of the Act and of the arbitration, and shall state concisely the question of law which the applicant desires to be stated for the opinion of the Court, and shall be supported by an affidavit setting forth the facts of the case and the question of law arising thereon.

(2) The application and affidavit shall be filed with the registrar, and shall be marked by the registrar with a reference number, and all subsequent proceedings shall bear the reference number.

(3) Copies of the application and affidavit shall be served by the applicant on the parties to the arbitration, and on the arbitrator, or on their respective solicitors (if any), ten clear days at least before the hearing of the application, unless the judge or registrar shall give leave for shorter service, in which case a copy of the order giving such leave shall be served with the copy of the application. Such service may be effected in accordance with the provisions of section 45 of the said Act; and service on any party who does not appear on the hearing of the application shall be proved before an order is made.

8 Edw. 7, c. 28, s. 45.

(4) Any affidavit intended to be used by any party in opposition to the application shall be filed and a copy thereof shall be served on the applicant or his solicitor four clear days at least before the hearing of the application, or, if leave has been given for short service of the notice of the

application, in such reasonable time before the hearing as the date of service of such notice will allow. Rules.

(5) A deponent to an affidavit shall on notice from the other side served in accordance with paragraph 3 attend the hearing for cross-examination ; and witnesses may be orally examined on the hearing of the application in the same manner as on the hearing of an action.

(6) The order of the judge on the application shall be prepared and settled and signed by the registrar, and shall be sealed and filed, and sealed copies thereof shall be served on the arbitrator in accordance with the provisions of section 45 of the said Act, and on all other persons affected thereby in accordance with Rule 7 of Order XXIII. (*a*). 8 Edw. 7, c. 28, s. 45.

3.—(1) Where an arbitrator under the said Act states in the form of a special case for the opinion of the Court any question of law arising in the course of the arbitration (whether on his own motion or in pursuance of a direction of the Court to that effect), such case shall be intituled in the matter of the Act and of the arbitration, and shall be divided into paragraphs numbered consecutively, and shall state concisely such facts and documents as may be necessary to enable the judge to decide the questions of law raised thereby. Upon the argument of such case the judge and the parties shall be at liberty to refer to the whole contents of such documents, and the judge shall be at liberty to draw from the facts and documents stated in the case any inference, whether of fact or of law, which might have been drawn therefrom if proved at the hearing of an arbitration. Statement of case. 8 Edw. 7, c. 28, Sched. 2, par. 9.

(2) Such special case shall be signed by the arbitrator, and may be filed by the arbitrator or any of the parties to the arbitration with the registrar, and a copy shall be filed therewith for the use of the judge ; and such case shall be Signing and filing.

(*a*) Rule 7 of Order XXIII. provides for the preparation by the registrar and delivery to the bailiff for service of judgments and orders.

Rules.

marked by the registrar with a reference number (which, where a case is stated in pursuance of a direction of the Court to that effect, shall be the same as that on the application for such direction), and all subsequent proceedings shall bear the reference number.

Fixing day for hearing. Form 416A.

(3) On a case being filed the registrar shall transmit a copy thereof to the judge, who shall, as soon as conveniently may be, appoint a day and hour for hearing the case and instruct the registrar to give notice thereof forthwith to the parties. Such day shall be so fixed as to allow such notice to be given ten clear days at least before the day fixed for the hearings, unless the judge shall, with the consent of all parties, fix an earlier day; and such notices may be served in accordance with the provisions of section 45 of the said Act.

8 Edw. 7, c. 28, s. 45.

Copies of case.

(4) The registrar shall, on the application and at the cost of any party, furnish him with a copy of the case.

Order on hearing. Form 417A.

(5) On the hearing of the case an order in accordance with the opinion of the judge shall be prepared and settled and signed by the registrar, and shall be sealed and filed, and sealed copies thereof shall be served on all parties to the arbitration in accordance with Rule 7 of Order XXIII.; and a sealed copy thereof shall be sent in like manner to the arbitrator, for him to proceed in accordance with the opinion of the judge.

Remitting case for restatement.

(6) The judge may remit the case to the arbitrator for re-statement or further statement.

Application for removal of arbitrator or to set aside award. 8 Edw. 7, c. 28, Sched. 2, pars. 6, 13.

4.—(1) When application is made to the Court under the said Act for the removal of an arbitrator on the ground of his misconduct, or for an order setting aside an award on the ground of misconduct of the arbitrator, or on the ground that the arbitration or award has been improperly procured, the party making the application shall be called "the applicant"; and all other parties to the arbitration, and the arbitrator, shall be made parties to the application, and shall be called "the respondents."

Rules.

(2) Proceedings shall be commenced by filing an application, intituled in the matter of the Act and of the arbitration, which shall be entered and numbered as a plaint. Proceedings, how commenced. Form 418A.

(3) Particulars shall be appended or annexed to the application, containing—

(a) A concise statement of the relief or order which the applicant claims, and of the grounds on which the application is made : Particulars and affidavit.

(b) The full names and addresses of the respondent and of the applicant, and of his solicitor, if the proceedings are commenced through a solicitor :

and the application shall be supported by an affidavit setting forth the circumstances in which and the grounds on which the application is made.

(4) The applicant shall deliver to the registrar with the application, particulars, and affidavit a copy thereof for the judge, and a copy for each respondent to be served ; and where the application is to set aside an award, the applicant shall file a copy of the award for the use of the judge. Copies for judge and respondents.

(5) On the filing of the application the registrar shall fix the hearing thereof before the judge for any Court appointed to be held within twenty-eight days from the date of the application, but the date of hearing shall be so fixed as to allow the copies of the application, particulars, and affidavit to be served on the respondents at least ten clear days before the date so fixed. Fixing day of hearing by registrar.

(6) If there is no such Court available, the registrar shall send notice of the application to the judge, who shall, as soon as conveniently may be, appoint a day and place for the hearing of the application. Such day shall be so fixed as to allow the copies of the application, particulars, and affidavit to be served on the respondents at least ten clear days before the date so fixed. The place of hearing shall be the place at which the Court is held, or, if the judge so orders, any other convenient Court of which he is judge. Fixing day and place of hearing by judge.

Rules.

Notice to parties. Forms 419A, 420A.

(7) On the day for the hearing of the application being fixed, the registrar shall give or send by post notice in writing to the applicant, stating the place at which and the day and hour on and at which the application will be heard, and shall issue the copies of the application, particulars, and affidavit, under the seal of the Court, for service on the respondents, together with notices signed by the registrar himself and under the seal of the Court, stating the place at which and the day and hour on and at which the application will be heard, and that if the respondents do not attend in person or by their solicitors such order will be made and proceedings taken as the judge may think just and expedient.

Service on respondents.

(8) The copies and notices mentioned in the last preceding paragraph shall be served on each respondent ten clear days at least before the day fixed for the hearing, unless such respondent, or his solicitor on his behalf, agrees to accept shorter service.

By whom service may be effected.

(9) Such copies and notices may be served—

(a) By a bailiff of a Court;

or, at the request of the applicant or his solicitor,

(b) By the applicant, or some clerk or servant in his permanent and exclusive employ; or

(c) By the applicant's solicitor, or a solicitor acting as agent for such solicitor, or some person in the employ of either of them.

Mode of service.

8 Edw. 7, c. 28, s. 45.

(10) Service may be effected either in accordance with the rules as to service of default summonses, or by registered post in accordance with the provisions of section 45 of the said Act.

Where service effected otherwise than by bailiff.

(11) Where service is effected otherwise than by a bailiff, a copy of the document served, with the date and mode of service indorsed thereon, shall within three clear days next after the date of service, or such further time as may be allowed by the registrar of the Court issuing such document, be delivered or transmitted to such registrar by the applicant or his solicitor. The applicant or his solicitor shall

also deliver or transmit to the registrar an affidavit of the service of such document, according to the form in the Appendix (*a*), with such variations as the circumstances of the case may require. Rules. Form 37.

(12) Any affidavit intended to be used by any respondent on the hearing of the application shall be filed and a copy thereof shall be served on the applicant or his solicitor four clear days at least before the hearing of the application, or, if short service of the notice of the application has been accepted, in such reasonable time before the hearing as the date of service will allow. Affidavits by respondents.

(13) A deponent to an affidavit shall on notice from the other side served in accordance with the provisions of section 45 of the said Act, attend the hearing for cross-examination; and witnesses may be orally examined on the hearing of the application in the same manner as on the hearing of an action. Attendance for cross-examination. 8 Edw. 7, c. 28, s. 45.

(14) Subject to the special provisions of this rule, the procedure on an application shall be the same as the procedure in an action commenced in the Court by plaint and summons in the ordinary way, and determined by the judge without a jury; and the statutory provisions and rules for the time being in force relating to such actions shall, with the necessary modifications, apply to such application accordingly; and in the application of such provisions and rules the application shall be deemed to be a summons with particulars annexed, the day fixed for proceeding with the application shall be deemed to be the return day, and the applicant and respondents shall be deemed to be plaintiff and defendants respectively. Procedure on application.

(15) The order of the judge on any application shall be prepared and settled and signed by the registrar, and shall be sealed and filed, and sealed copies thereof shall be served on all persons affected thereby in accordance with Rule 7 of Order XXIII. (*b*); and such order shall be Order.

(*a*) Form 37 is a form of affidavit of service of a default summons. See Annual County Courts Practice, 1921, vol. i., p. 688

(*b*) See note to Rule 2 (6) of this Order, *ante*, p. 259.

Rules.

enforceable in the same manner as a judgment or order of the Court.

Where hearing is to take place in another Court.

(16) Where the hearing is to take place at another Court, the registrar of the Court in which the proceeding is pending shall forthwith send notice to the registrar of such other Court that the judge has ordered the hearing to take place there; and he shall, in sufficient time before the hearing, transmit the papers to the registrar of the Court at which the hearing is to take place, who shall act at the hearing for such first-mentioned registrar, and shall, after the hearing, return the papers to him, with a minute of the order made; and such order shall be prepared, settled, signed, sealed, filed, served, and proceeded on in the Court in which the proceeding is pending, in like manner as if the hearing had taken place there.

Application for taxation of costs of arbitration. 8 Edw. 7, c. 28, Sched. 2, par. 14. [*Conf.* Form 423.]

5.—(1) An application to the registrar to tax the costs of and incidental to an arbitration and award under the said Act shall be made in writing, and shall state on whose behalf the application is made.

Notice of time and place for taxation. [*Conf.* Form 424.]

(2) On receipt of such application, the registrar shall fix a place and time for proceeding with such taxation, and shall give or send by post notice in writing to the applicant and to the parties whose costs are to be taxed, signed by the registrar himself and under the seal of the Court, stating the place, day, and hour at and on which the taxation will be proceeded with, and requiring the parties to attend and produce documents and be examined, and warning them that if they do not attend in person or by their solicitors such order will be made and proceedings taken as to the registrar shall seem fit. Such notices shall be given or sent four clear days at least before the day fixed for the taxation.

Certificate of taxation.

(3) On the completion of the taxation, or, in the case of review by the judge, after such a review, the registrar shall give or send by post to each party a certificate of the result of the taxation, stating the amount at which the costs have been allowed.

Rules.

6. An application to the judge to review any taxation by the registrar shall be made on notice in writing in accordance with the rules for the time being in force as to interlocutory applications.

Review of taxation by judge. 8 Edw. 7, c. 28, Sched. 2, par. 14.

7.—(1) An application to the judge under the said Act, or the Allotments and Cottage Gardens Compensation for Crops Act, 1887, for an order that money awarded to be paid for compensation, costs, or otherwise, shall be recoverable as money ordered by a County Court under its ordinary jurisdiction to be paid is recoverable, shall be made in Court on notice in writing, which shall be intituled in the matter of the Act and of the arbitration; and on filing the application the applicant shall produce to the registrar the original award (or a duplicate thereof) and shall file a copy thereof, together with an affidavit intituled as above, verifying both the original and the copy award, and the amount remaining due thereunder.

Application for recovery of money awarded to be paid for compensation, &c. 8 Edw. 7, c. 28, s. 14, 50 & 51, Vict. c. 26, s. 17. Form 421A.

(2) Where the application is for the recovery of or includes the recovery of any money awarded to be paid for costs, the affidavit shall state the amount at which such costs have been agreed upon or allowed on taxation, and that a demand for payment of such amount, with, in the case of taxation, a copy of the certificate of the result of the taxation, has been served on the party against whom the application is made fourteen days at least before the date of the application. Service of such demand may be effected in accordance with the provisions of section 45 of the said Act.

(3) The application shall not be numbered as a plaint, but shall be marked by the registrar with a reference number as a commencement of proceedings, and all subsequent proceedings shall bear the reference number. 8 Edw. 7, c. 28, s. 45.

(4) A copy of the application and affidavit shall be served on the party against whom the application is made, and proof of such service shall be made, in accordance with paragraph 3 of Rule 2 of this Order; and the provisions of paragraphs 4 and 5 of the last mentioned rule

Rules.

shall apply to proceedings on an application under this rule.

Form 422A.

(5) The order of the judge on the application shall be prepared and settled and signed by the registrar, and shall be sealed and filed, and sealed copies thereof shall be served on all persons affected thereby in accordance with Rule 7 of Order XXIII.; and such order shall be enforceable in the same manner as a judgment or order of the Court.

Proceedings for recovery of money agreed to be paid under 8 Edw. 7, c. 28, s. 14; 50 & 51 Vict. c. 26, s. 17, or for settlement of disputes under 8 Edw. 7, c. 28, s. 30.

8. Proceedings for the recovery of money agreed to be paid for compensation, costs, or otherwise, under the said Act, or the Allotment and Cottage Gardens Compensation for Crops Act, 1887, or for the settlement of a dispute under section 30 of the said Act, shall be by action commenced by plaint and summons in the ordinary way. Particulars of demand shall be filed in any such action, stating concisely the nature of the claim or dispute, and the relief or order which the plaintiff claims.

Application of Order to cases under Acts applying 8 Edw. 7, c. 28. (See 8 Edw. 7, c. 36, ss. 38, 58.)

9. This Order shall, with the necessary modifications, apply to all cases in which by virtue of any other Act of Parliament questions referred to arbitration are to be determined in accordance with the said Act.

COUNTY COURT FORMS.

415.

THE AGRICULTURAL HOLDINGS ACT, 1908. Ord. XL. r. 2.

Application for Order directing Statement of Case.

[*Not to be printed.*]

In the County Court of holden at .

[*Reference number.*]

In the matter of the Agricultural Holdings Act, 1908, and
In the matter of an Arbitration between
A. B.
of, &c., Tenant,
and
C. D.,
of, &c., Landlord.

TAKE NOTICE, that application will be made to the judge at on the day of , 19 , at the hour of o'clock in the noon, on behalf of the above-named , for an order directing Mr. , the arbitrator appointed in the above-mentioned arbitration, to state in the form of a special case for the opinion of the Court the following question of law arising in the course of the arbitration, viz.,

[*State the question of law.*]

And further take notice, that an affidavit of filed herewith [*in the notice served on any party substitute for these words*, a copy whereof is served herewith] will be read in support of the application.

Dated this day of , 19 .

(Signed)
Applicant
[*or* Applicant's Solicitor].

To the Registrar of the Court
and to [*the other parties to the arbitration and the arbitrator, naming them*].

Forms.

416.

Ord. XL. r. 3 (3).

THE AGRICULTURAL HOLDINGS ACT, 1908.

Notice of Day on which Case will be heard.

[*Not to be printed.*]

In the County Court of holden at .

[*Heading as in Special Case.*]

TAKE NOTICE, that the judge of this Court will hear the special case stated by Mr. , the arbitrator appointed in the above-mentioned matter, at a Court to be holden at on the day of , 19 , at the hour of in the noon ; and that if you do not attend in person or by your solicitor at the time and place above mentioned, such order will be made and proceedings taken as the judge may think just.

You may obtain a copy of the case upon application at my office, and upon prepayment of the costs of such copy.

Dated this day of , 19 .

Registrar.

To

[*the parties to the arbitration*].

417.

Ord. XL. r. 3 (5).

THE AGRICULTURAL HOLDINGS ACT, 1908.

Order on Hearing of Case.

[*Not to be printed.*]

[*Heading as in Special Case.*]

The special case stated by Mr. , the arbitrator appointed in the above-mentioned matter [*if stated pursuant to an order of the judge, add :* in pursuance of an order of the judge made in the above-mentioned matter on the day of , 19] coming on for hearing this day :

Forms.

Now, upon reading the said case, and upon hearing the above-mentioned A. B. (*or* Mr. , solicitor [*or* of counsel] for the above-named A. B.] and the above-named C. D. [*or* Mr. , solicitor [*or* of counsel] for the above-named C. D.] [*or if either party does not appear*, no one appearing for the above-named A. B. [*or* C. D.]], and upon debate of the matter, the judge of this Court doth declare his opinion on the question of law stated for the opinion of the Court as follows :—

[*State opinion.*]

And it is ordered that a copy of this order be sent by the registrar to the said Mr. , for him to proceed in accordance with the opinion so declared as aforesaid.

[*Add directions, as to costs, if any.*]

Dated this day of , 19 .

Registrar.

To

[*the parties to the arbitration and the arbitrator*].

418.

THE AGRICULTURAL HOLDINGS ACT, 1908. Ord. XL. r. 4 (2).

Application for Removal of Arbitrator, or to set aside Award.

[*Not to be printed.*]

In the County Court of holden at .

No. of Plaint .

In the matter of the Agricultural Holdings Act, 1908,

and

In the matter of an Arbitration between

A. B.,

of, &c., Tenant,

and

C. D.,

of, &c., Landlord.

Application is hereby made on behalf of the above-named

Forms.

(1) For the removal of Mr. , the arbitrator appointed in the above-mentioned arbitration, on the ground of his misconduct.

Particulars are hereto appended [*or* annexed].

[*or* (2) To set aside the award made by Mr. , the arbitrator appointed in the above-mentioned arbitration, on the day of , on the ground of the misconduct of the said Mr. [*or* on the ground that the said arbitration [*or* award] was improperly procured].]

Particulars are hereto appended [*or* annexed].

An affidavit of in support of the application is filed herewith.

Application is hereby made to the Court to fix a day for the hearing of the said application.

The names and addresses of the applicant and his solicitor are :—

Of the applicant .
Of his solicitor .

The names and addresses of the respondents to be served with this application are

Dated this day of , 19 .

(Signed)

Applicant
[*or* Applicant's Solicitors].

419.

THE AGRICULTURAL HOLDINGS ACT, 1908. Ord. XL. r. 4 (7).

Notice to Applicant of Day on which Application will be heard.

[*Not to be printed.*]

[*Heading as in Application.*]

TAKE NOTICE, that the judge of this Court will hear the application in this matter at [*state place of hearing*] on the day of 19 , at the hour of in the noon.

Dated this day of 19 .

To Registrar.

Of

420.

THE AGRICULTURAL HOLDINGS ACT, 1908. Ord. XL. r. 4 (7).

Notice to Respondents of Day on which Application will be made.

[*Not to be printed.*]

[*Heading as in Application.*]

TAKE NOTICE, that the judge of this Court will hear the application, a sealed copy of which, with the particulars thereunto appended [*or* annexed] and a sealed copy of an affidavit filed in support thereof, is served herewith at [*state place of hearing*] on the day of 19 , at the hour of in the noon; and that if you do not attend either in person or by your solicitor at the time and place above mentioned, such order will be made and proceedings taken as the judge may think just and expedient.

Dated this day of 19 .

To Registrar.

Of

[*naming all the respondents*].

Forms.

421.

Ord. XL. r. 7 (1).

THE AGRICULTURAL HOLDINGS ACT, 1908.

[*or* THE ALLOTMENTS AND COTTAGE GARDENS COMPENSATION FOR CROPS ACT, 1887.]

Application for Order for Recovery of Money awarded to be paid.

[*Not to be printed.*]

In the County Court of holden at .

[*Reference number* .]

In the matter of the Agricultural Holdings Act, 1908 [*or* In the matter of the Allotments and Cottage Gardens Compensation for Crops Act, 1887]

and

In the matter of an Arbitration between

A. B.,
of, &c., Tenant,

and

C. D.,
of, &c., Landlord.

TAKE NOTICE, that application will be made to the judge at on the day of 19 , at the hour of in the noon, on behalf of the above-named A. B. for an order that the sum of *l.*, being the total amount [*or* the balance of the total amount] of (1) a sum of *l.* which by an award made in the above-mentioned matter on the day of 19 , was awarded to be paid by the above-named C. D. to the above-named A. B., and of (2) a further sum of *l.* for costs which by the said award were awarded to be paid by the said C. D. to the said A. B. , and which costs were subsequently agreed upon [*or* allowed on taxation] at the sum of *l.*, and which said first-mentioned sum of *l.* remains unpaid, shall be recoverable as money ordered by the Court under its ordinary jurisdiction to be paid is recoverable ;

And further take notice, that an affidavit of filed herewith [*in the notice to be served on the opposite party, substitute for the words* a copy where of is served herewith] will be read in support of the application.

Dated this day of 19 .

(Signed)

Applicant

[*or* Applicant's Solicitor].

To the Registrar of the Court

and to [*naming the party against whom the application is made*].

422.

THE AGRICULTURAL HOLDINGS ACT, 1908. Ord. XL. r. 7 (5).

[*or* THE ALLOTMENTS AND COTTAGE GARDENS COMPENSATION FOR CROPS ACT, 1887.]

Order for Recovery of Money awarded to be paid.

[*Not to be printed.*]

[*Title as in Application.*]

Upon the application of , and upon reading an award made in the above-mentioned matter on the day of 19 , and an affidavit of sworn on the day of 19 , and filed on the day of 19 , and upon hearing [*the opposite party*] [*or if the opposite party does not appear*, and no one appearing for [*the opposite party*] though proof has been made of his having been duly served with notice of this application];

It is ordered by the judge of this Court that the above named A. B. do recover from the above-named C. D. the sum of *l.*, being the total amount [*or* the balance of the total amount] of (1) a sum of *l.* which by the said award was awarded to be paid by the above-named C. D. to the above-named A. B. , and of (2) a further sum of *l.* for costs which by the said

Forms. award were awarded to be paid by the said C. D. to the said A. B. , and which costs were subsequently agreed upon [*or* allowed on taxation] at the sum of *l.*, and which said first-mentioned sum of *l.* remains unpaid, together with the sum of *l.* for the costs of this application ; and that in default of payment of the said sums of *l.* and *l.* by the said C. D. to the said A. B. within days from the date of this order, the said sums or so much thereof as shall remain unpaid shall be recoverable as money ordered by this Court under its ordinary jurisdiction to be paid is recoverable.

Dated this day of 19 .

Registrar.

APPENDIX III.

PART I.

RULES AND REGULATIONS ISSUED UNDER THE AGRICULTURAL HOLDINGS ACTS, 1908 TO 1920. Rules.

1. *Agricultural Holdings (England) Rules of* 1908.
2. *Agricultural Improvements Regulations (No.* 2), 1921, *under Section* 15, *sub-s.* 2 *of the Agriculture Act*, 1920.

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1. AGRICULTURAL HOLDINGS (ENGLAND) RULES OF 1908.

(Dated 28th November, 1908.)

The Board of Agriculture and Fisheries, by virtue and in exercise of the powers in them vested under the Agricultural Holdings Act, 1908, do hereby prescribe as follows :—

1. An award in an arbitration under the Agricultural Holdings Act, 1908, shall be in the form set forth in the First Schedule hereto, or to the like effect, with such modifications of the recitals contained in such form as circumstances may require.

2. The several forms for proceedings in arbitrations under the said Act, which are set forth in the Second Schedule hereto, shall, if used, be sufficient.

3. These Rules extend to England and Wales only.

4. The Agricultural Holdings (England) Rules of 1900 shall remain in force for the purpose only of arbitrations under the Agricultural Holdings (England) Acts, 1883 to 1900.

Forms. 5. These Rules may be cited as the Agricultural Holdings (England) Rules of 1908.

The FIRST SCHEDULE to the above Rules.

Form A.

Form of Award where Compensation is claimed for Tenant's Improvements.

Agricultural Holdings Act, 1908.

In the matter of a holding known as lately in the occupation of A. B., of (*the quitting tenant*).

Insert name (if any) and description of holding.

To all to whom these presents shall come I., F. G., of , send greeting.

Whereas C. D., the landlord of the above-mentioned holding, and the said A. B., the tenant thereof, have failed to agree as to the amount and time and mode of payment of the compensation to which the said A. B. claims to be entitled in respect of the improvements made on the above-mentioned holding, which are comprised in the First Schedule to this Award.

(*Here insert recital of appointment of Arbitrator. See Form C.*)

And whereas the said A. B., by written notice to the said C. D., has required [*or* the said A. B. and C. D. have agreed] that the arbitration shall extend to the determination of certain further claims by the said A. B. against the said C. D. in respect of the said holding, the short particulars of which claims are set forth in the Second Schedule to this Award.

And whereas the said C. D., by written notice to the said A. B., has required [*or* the said A. B. and C. D. have agreed] that the arbitration shall extend to the determination of certain claims by the said C. D. against the said A. B. in respect of the said holding, the short particulars of which claims are set forth in the Third Schedule to this Award.

Forms.

And whereas application has been duly made to me to specify the amount awarded in respect of such of the claims set forth in the said Schedules as are therein marked with an asterisk.

[And whereas the time for making my Award has been extended by the Ministry of Agriculture and Fisheries to the day of , 19 .]

Now know ye that I, the said F. G., having taken upon myself the burden of the said reference, and having heard, examined, and considered the witnesses and evidence concerning the said matters so referred to me as aforesaid, do make and publish this my Award of and concerning the same in manner following, that is to say :—

1. I award and determine that the said A. B. is entitled to receive from the said C. D. the sum of pounds shillings and pence, as compensation in respect of the improvements comprised in the First Schedule to this Award.

2. I award and determine that the said A. B. is entitled to receive from the said C. D. the sum of pounds shillings and pence, in respect of the claims mentioned in the Second Schedule to this Award.

3. I award and determine that the said C. D. is entitled to receive from the said A. B. the sum of pounds shillings and pence, in respect of the claims mentioned in the Third Schedule to this Award.

4. I hereby declare that the amounts awarded by me in respect of such of the said claims as are marked with an asterisk are the amounts set against such claims in such Schedules.

5. I award and determine that the said sum[s] of pounds shillings and pence [and pounds shillings and pence] awarded by me shall, subject to the provisions of the Agricultural Holdings Act, 1908, be paid by the said C. D. to the said A. B. on the day after the delivery of this Award ; and that

NOTE.—The date in paragraphs 5 and 6 must be not later than one calendar month

Forms.

after the delivery of the award.

the said sum of pounds shillings and pence awarded by me shall, subject as aforesaid, be paid by the said A. B. to the said C. D. on the same day.

6. I award and direct that the costs of and incidental to the arbitration and this Award shall be paid by the said A. B., *or* C. D. *or* by the said A. B. and C. D. in the following proportions, namely, part thereof by the said A. B. and part thereof by the said C. D. [*or otherwise as may be directed*], *or* I award and direct that each party shall bear his own costs of and incidental to this arbitration, and shall pay part of my costs of this Award, and that any costs payable by the one party to the other party under or by virtue of this Award shall be so paid on the day after the delivery of this Award.

See note above.

In witness whereof I have hereunto set my hand this day of , 19 .

Signed by the said F. G. in the presence of

F. G.

The First Schedule referred to in the above-written Award.

(*Here insert each of the improvements comprised in the First* [*or Third*] *Schedule*[*s*] *to the Agricultural Holdings Act*, 1908, *in respect of which a claim by the tenant has been referred to arbitration.*)

The Second Schedule referred to in the above-written Award.

(*Here insert short particulars of any further claim by the tenant to which the arbitration is extended.*)

The Third Schedule referred to in the above-written Award.

(*Here insert short particulars of any claim by the landlord to which the arbitration is extended.*)

(*If either party has required that the amount awarded in respect of any particular claim shall be specified, the person making the Award will mark such claim with an asterisk, and place against it the amount awarded in respect thereof.*)

NOTE.—*The Award may be endorsed as follows :—*

This Award was delivered to A. B. [*or* C. D.] on the day of , 19 .

F. G.

FORM B.

Form of Award for Cases in which Form A is inapplicable.

Agricultural Holdings Act, 1908.

In the matter of a holding known as , [lately] in the occupation of A. B., of (*the* [*quitting*] *tenant*).

Insert name (if any) and description of holding.

To all to whom these presents shall come I, F. G., of , send greeting.

Whereas under the Agricultural Holdings Act, 1908, [*or* the contract of tenancy of the said holding *or* an agreement made between C. D. the landlord of the said holding and the said A. B. the tenant thereof] the questions and claims set forth in the Schedule to this Award are referred to arbitration in accordance with the provisions set out in the Second Schedule to the Agricultural Holdings Act, 1908.

(*Here insert recital of appointment of arbitrator. See Form C.*)

And whereas application has been duly made to me to specify the amount awarded in respect of such of the claims set forth in the Schedule to this Award as are in such Schedule marked with an asterisk.

[And whereas the time for making my Award has been extended by the Ministry of Agriculture and Fisheries to the day of 19 .]

Now know ye that I, the said F. G., having taking upon myself the burden of the said reference, and having heard, examined, and considered the witnesses and evidence concerning the said questions and claims so referred to me

Forms.

as aforesaid, do make and publish this my Award of and concerning the same in manner following, that is to say :—

1. By this Award I determine the questions set forth in the Schedule hereto in manner following (that is to say) : [*Here set out determinations.*]

2. I award and determine that the said A. B. is entitled to receive from the said C. D. the sum of pounds shillings and pence, as compensation in respect of the claims set forth in the first part of the Schedule to this Award.

3. I award and determine that the said C. D. is entitled to receive from the said A. B. the sum of pounds shillings and pence, in respect of the claims set forth in the second part of the Schedule to this Award.

4. I do hereby declare that the amounts awarded by me in respect of such of the said claims as are marked with an asterisk are the amounts set against such claims in such Schedule.

NOTE.—The date in paragraphs 5 and 6 must be not later than one calendar month, after the delivery of the award.

5. I award and determine that the said sum[s] of pounds shillings and pence [and pounds shillings and pence] awarded by me shall, subject to the provisions of the Agricultural Holdings Act, 1908, be paid by the said C. D. to the said A. B. on the day after delivery of this Award ; and that the said sum of pounds shillings and pence awarded by me shall, subject as aforesaid, be paid by the said A. B. to the said C. D. on the same day.

6. I award and direct that the costs of and incidental to the arbitration and this Award shall be paid by the said A. B. *or* C. D. *or* by the said A. B. and C. D. in the following proportions, namely, part thereof by A. B. and part thereof by the said C. D. [*or otherwise as may be directed*], *or* I award and direct that each party shall bear his own costs of and incidental to this arbitration, and shall pay part of my costs of this Award, and that any costs payable by the one party to the other party under or by virtue of this Award shall be so paid on the day after the delivery of this Award.

See note above.

In witness whereof I have hereunto set my hand this day of , 19 . **Forms.**

Signed by the said F. G. in the presence of

F. G.

The SCHEDULE referred to in the above-written Award.

(*Here set forth questions and claims to be determined. If either party has required that the amount awarded in respect of any particular claim shall be specified, the person making the Award will mark such claim with an asterisk, and place against it the amount awarded in respect thereof.*)

FORM C.

Recital of Appointment of Arbitrator.

And whereas by an appointment, dated the day of , 19 , signed by [*or* on behalf of] the said A. B. and C. D. [*or* sealed by the Ministry of Agriculture and Fisheries, *as the case may be*], I, the said F. G., was duly appointed under the Agricultural Holdings Act, 1908, to act as arbitrator for the purpose of settling the said differences [questions and claims] in accordance with the provisions set out in the Second Schedule to that Act.

The SECOND SCHEDULE to the above Rules.

FORM D.

(*Application for Appointment by Ministry of Agriculture and Fisheries of Arbitrator to determine the Compensation for Tenant's Improvements, &c.*)

Agricultural Holdings Act, 1908.

To the Ministry of Agriculture and Fisheries.

In the matter of the holding known as , lately in the occupation of A.B., of (*the quitting tenant*). Insert name (if any) and

Forms.

description of holding.

Whereas the said A. B. claims to be entitled to compensation in respect of certain improvements comprised in the First [*or* Third Schedule[s] to the above-mentioned Act which have been made on the above-mentioned holding.

And whereas C. D., of , the landlord of the said holding, and the said A. B., have failed to agree as to the amount and time and mode of payment of such compensation, and as to the person to act as arbitrator for the purpose of settling the differences that have so arisen.

And whereas there is not any provision in any agreement between the said A. B. and C. D. relating to the appointment of such arbitrator, and such arbitrator may accordingly be appointed by the Ministry of Agriculture and Fisheries on the application in writing of either of the parties (*a*).

Now I, the undersigned, do hereby apply to the Ministry of Agriculture and Fisheries for the appointment by them of an arbitrator for the purpose of settling the said differences, and for determining all other claims relating to such holding which are brought within such arbitration under section 6, sub-section 3, of the above-mentioned Act, or by agreement between the parties.

(Signature of A. B. [*or* C. D.], or his duly authorized agent.)

19 .

NOTE.—*Delay in making the appointment will be avoided if the application is signed by or on behalf of both parties.*

Applications should be sent to the Ministry in duplicate.

(*a*) The Board has only power to nominate an arbitrator in default of agreement by the parties. See Schedule II. rule 1, of the Act, *ante*, p. 103.

FORM E.

Application for Appointment by Ministry of Agriculture and Fisheries of Arbitrator to determine Questions or Claims not relating to Tenant's Improvements.

Agricultural Holdings Act, 1908.

To the Ministry of Agriculture and Fisheries.

In the matter of the holding known as , [lately] in the occupation of A. B., of (*the* [*quitting*] *tenant*).

Insert name (if any) and description of holding.

Whereas under the Agricultural Holdings Act, 1908, [*or* the contract of tenancy of the said holding *or* an agreement made between C. D. the landlord of the said holding and the said A. B. the tenant thereof] the questions and claims set forth in the Schedule to this application are referred to arbitration in accordance with the provisions set out in the Second Schedule to the Agricultural Holdings Act, 1908.

And whereas the said A. B. and C. D. have failed to agree as to the person to act as arbitrator for the purpose of settling the said questions and claims.

And whereas there is not any provision in any agreement between the said A. B. and C. D. relating to the appointment of such arbitrator, and such arbitrator may accordingly be appointed by the Ministry of Agriculture and Fisheries on the application in writing of either of the parties.

Now I, the said undersigned, do hereby apply to the Ministry of Agriculture and Fisheries for the appointment by them of an arbitrator for the purpose of settling the questions and claims set forth in the Schedule to this application.

(Signature of A. B. [*or* C. D.], or his duly authorized agent.)

19 .

Schedule.

[Here set forth precisely the questions or claims to be determined.]

NOTE.—*Delay in making the appointment will be avoided if the application is signed by or on behalf of both parties. Applications should be made to the Ministry in duplicate.*

Forms.

FORM F.

Application to Ministry of Agriculture and Fisheries for Extension of Time for Award.

Agricultural Holdings Act, 1908.

To the Ministry of Agriculture and Fisheries.

Insert name (if any) and description of holding.

In the matter of an arbitration under the above-mentioned Acts between A. B., of (*the* [*quitting*] *tenant*), and C. D., of (*the landlord*), relating to the holding known as , [*lately*] in the occupation of the said A. B.

Whereas the time for making the Award in the said arbitration will expire [*or* expired] on the day of , 19 .

Now I, the undersigned, do hereby apply to the Ministry of Agriculture and Fisheries to extend the time for making the said Award to the day of , 19 .

19 .

[*This may be signed by the arbitrator, or by either party to the arbitration or his duly authorized agent.*]

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2. THE AGRICULTURAL IMPROVEMENTS REGULATIONS (No. 2), 1921, DATED MARCH 29, 1921, MADE BY THE MINISTER OF AGRICULTURE AND FISHERIES UNDER SECTION 15 (2) OF THE AGRICULTURE ACT, 1920 (1921. No. 560).

Whereas the Minister of Agriculture and Fisheries is empowered by sub-section (2) of Section 15 of the Agriculture Act, 1920, to substitute such percentages or period as he thinks fit for the percentages and period contained in sub-section (3) of Section 3 of the Agricultural Holdings Act, 1908, having due regard to the current rates of interest.

Now the Minister by these Regulations, having due regard to the current rates of interest, directs as follows :—

Rules.

1. For the percentages referred to in the said sub-section, namely, five per cent. and three per cent., there shall be substituted seven per cent. and five per cent. respectively.

2. For the period referred to in the said sub-section (namely, twenty-five years) there shall be substituted in the case of any improvement as to which a direction is given under sub-section (1) of Section 15 of the Agriculture Act, 1920, such period not exceeding twenty-five years as the County Agricultural Committee or a Sub-Committee to which the powers in this behalf are delegated, or the Arbitrator, as the case may be, shall in each case direct, having due regard to the time when the improvement to which the direction relates will become exhausted.

3. These Regulations shall apply only to an improvement executed or commenced to be executed, in the year nineteen hundred and twenty-one.

4. These Regulations may be cited as the Agricultural Improvements Regulations, 1921 (No. 2).

Rules.

PART II.

RULES AND REGULATIONS ISSUED UNDER THE CORN PRODUCTION ACTS, 1917 and 1920.

1. *Regulations of Nov.* 8, 1917, *with respect to the constitution and proceedings of the Agricultural Wages Board* (*England and Wales*).
2. *District Wages Committees Regulations*, 1920, *with respect to the establishment and constitution of District Wages Committees and the Delegation of their powers to Sub-Committees.*
3. *Regulations under section* 12 (1) (*b*) *and* (c) *of Corn Production Act*, 1917.
4. *Order of September* 6, 1918, *as to benefits and allowances which may be reckoned as payment of wages in lieu of payment in cash.*
5. *Amendment of Jan.* 1*st*, 1919, *of last Order.*
6. *Regulations of July* 28, 1919, *with respect to claims under Part IV. of the Corn Production Act*, 1917.
7. *Cultivation of Land Order*, 1920, *under section* 4 *of the Agriculture Acts* 1920.
8. *Delegation by Minister of Agriculture and Fisheries of December* 30, 1920.
9. *Injurious Weeds Regulations*, 1921.

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1. Regulations dated November 8, 1917, made by the Board of Agriculture and Fisheries under the Corn Production Act, 1917, with respect to the Constitution and Proceedings of the Agricultural Wages Board (England and Wales).

1917, No. 1154.

1. An Agricultural Wages Board shall be established for England and Wales consisting of 39 persons, of whom seven shall be appointed members and the remainder representative members. The representative members

shall be members representing employers and workmen, respectively, in equal proportions. Rules.

2. The Chairman and Deputy Chairman shall be appointed by the Board of Agriculture and Fisheries from among the members of the Wages Board, and each of them shall (provided that he continues to be a member of the Wages Board) hold office for such period as the Board of Agriculture and Fisheries may determine.

3. The appointed members shall be such persons as may be selected by the Board of Agriculture and Fisheries to act on the Wages Board, provided that at least one shall be a woman.

4. The selection and appointment of representative members shall, subject to the provisions of paragraph 5 of these Regulations, be as follows :—

Of the members representing employers, eight shall be elected as follows :—

2 representatives by the Council of the Royal Agricultural Society of England.
2 representatives by the General Executive Committee of the National Farmers' Union.
2 representatives by the Council of the Central and Associated Chambers of Agriculture.
2 representatives by the Welsh Agricultural Council.

Eight members representing employers shall be nominated by the Board of Agriculture and Fisheries, after due consideration of any names which may be submitted by agricultural associations or otherwise, and after such local enquiries as the President of the Board may deem desirable.

Of the members representing workmen six shall be elected by the Executive Committee of the National Agricultural Labourers' and Rural Workers' Union and two by the General Executive Committee of the Workers' Union. Eight members representing workmen shall be nominated by the Board of Agriculture and Fisheries, after consulta-

Rules.

tion with the Ministry of Labour, and after due consideration of any names submitted by workmen and their representatives.

5. In the election and nomination of representative members, regard shall be had so far as practicable to securing on the Wages Board a fair representation of all classes of farming, and of the various conditions of employment in agriculture in all parts of the country. Where, as the result of any elections under the provisions of paragraph 4, such fair representation cannot, in the opinion of the Board of Agriculture and Fisheries, be secured on the Wages Board, the Board of Agriculture and Fisheries may, in addition to the persons nominated by them under paragraph 4, nominate a representative member in place of any person so elected.

6. The Board of Agriculture and Fisheries may, notwithstanding the provisions of paragraph 1, if they think it necessary to secure the proper representation of any classes of employers or workmen, after giving the Wages Board an opportunity to be heard, nominate additional representative members of the Wages Board to serve for such period, not exceeding three years, as may be determined by the Board of Agriculture and Fisheries. The number of such additional representative members shall always be an even number not exceeding four in all, of whom half shall be representatives of employers and half shall be representatives of workmen.

7. Any member representing employers who becomes a workman in agriculture shall vacate his seat. Any member representing workmen who becomes an employer in agriculture shall vacate his seat. The question of fact shall in each case be determined by the Board of Agriculture and Fisheries.

8. Any representative member who, in the opinion of the Board of Agriculture and Fisheries, fails without reasonable cause to attend one-half of the total number of meetings in a calendar year shall vacate his seat.

9. If in the opinion of the Board of Agriculture and Fisheries any representative member shall be incapable of acting as a member of the Wages Board, the Board of Agriculture and Fisheries may determine his appointment and he shall thereupon vacate his seat. **Rules.**

10. At the end of one year from the date of the establishment of the Wages Board five representative members to be chosen by lot from among the members representing employers and five representative members to be chosen by lot from among the members representing workmen (in each case excluding additional representative members nominated under paragraph 6 of these Regulations) shall retire from the Wages Board.

11. At the end of two years from the date of the establishment of the Wages Board five representative members to be chosen by lot from among the members representing employers and five representative members to be chosen by lot from among the members representing workmen (in each case excluding additional representative members nominated under paragraph 6 of these Regulations and excluding members filling the vacancies created by the operation of paragraph 10) shall retire from the Wages Board.

12. The term of office of an appointed member shall be two years, and, subject to the provisions of paragraphs 6, 7, 8, 9, 10 and 11, the term of office of a representative member shall be three years, provided that—

(a) A member appointed to fill a casual vacancy shall sit only for the unexpired portion of the term of office of his predecessor ; and

(b) A seat rendered vacant by effluxion of time shall, in the event of delay occurring in filling it, be temporarily occupied by the retiring member until a successor is appointed.

13. Any person vacating his seat on the Wages Board under any of the preceding paragraphs or for any other reason otherwise than under paragraph 9 of these Regula-

Rules.

tions shall be eligible to be re-appointed as a member of the Wages Board.

14. A vacancy among representative members shall be filled in the same manner as in the case of the original appointment to the vacated seat.

15. Every member of the Wages Board shall have one vote. If at any meeting of the Board the number of members present representing employers and workmen, respectively, is unequal, it shall be open to the side which is in the majority to arrange that one or more of their members shall refrain from voting, so as to preserve equality. Failing such an arrangement, the Chairman, or, in his absence, the Deputy Chairman, may, if he thinks it desirable, adjourn the voting on any question to another meeting of the Board. The Chairman, or, in his absence, the Deputy Chairman, shall, in the event of an equal division, have a second or casting vote.

16. The expressions "agriculture" and "workmen" in these Regulations shall have the meanings given in Section 17 (1) of the Corn Production Act, 1917.

17. The Wages Board shall be known under the title of "The Agricultural Wages Board (England and Wales)."

18. Any question upon the construction or interpreta- of these Regulations shall in the event of dispute be referred to the Board of Agriculture and Fisheries for decision.

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2. The District Wages Committees Regulations, 1920, dated September 23, 1920, made by the Minister of Agriculture and Fisheries under section 12 of the First Schedule to the Corn Production Act, 1917, with respect to the Establishment and Constitution of District Wages Committees and the Delegation of Powers to Sub-Committees.

1920, No. 1812. **Rules.**

1. District Wages Committees shall be established by the Agricultural Wages Board for the whole of England and Wales, and each such Committee shall act for such area as the Wages Board shall determine, and shall consist of :—

(*a*) Representatives of local employers and workers engaged in agriculture in equal proportions, who are hereinafter referred to as "representative members."

(*b*) Additional members (hereinafter called "appointed members") up to a number not exceeding one-fourth of the total number of members of the Committee.

At least one member of each District Wages Committee shall be a woman.

2. Any appointed member of the Wages Board shall have the right to attend any meeting of a District Wages Committee and take part in the proceedings, but without the power to vote unless he is a member of the Committee.

3. Should the Wages Board desire to vary the determination of the areas for which they have established District Wages Committees they shall furnish a statement of the proposed variation to the Minister of Agriculture and Fisheries (hereinafter referred to as "The Minister") together with a statement of the number of representative and appointed members respectively of which they propose that the Committees to be established for the areas affected shall consist.

4. The Minister, after consideration of the statements furnished by the Wages Board, shall determine the number of representative members and appointed members of which the District Wages Committees shall consist.

5. The representative members of District Wages Committees shall be appointed by the Wages Board from among persons nominated by employers' and workers'

Rules. organisations respectively, and the appointed members shall be appointed by the Minister.

6. The Chairman and Deputy-Chairman of each District Wages Committee shall be chosen from among the appointed members of the Committee by the Minister.

7. The Secretary of each District Wages Committee shall be appointed from time to time by the Minister.

8. Any member representing employers or workers who by reason of change of occupation or otherwise shall, in the opinion of the Wages Board, cease to represent employers or workers respectively shall, if so required by the Wages Board, vacate his seat.

9. Any representative member who, in the opinion of the Wages Board, fails without reasonable cause to attend one half of the total number of meetings in a calendar year, shall vacate his seat.

10. The Minister may in any case where in his opinion there is good and sufficient cause terminate the appointment of any appointed member of a District Wages Committee.

The Wages Board may in any case where in their opinion there is good and sufficient cause terminate the appointment of any representative member of a District Wages Committee.

11. The following provisions shall regulate the retirement of the first representative members appointed under these Regulations :—

(1) At the end of one year from the date of these Regulations one third (or if one third is not an integral number, the nearest integral number not exceeding one third) of the members of each District Wages Committee representing employers, to be chosen by lot, and one third (or if one third is not an integral number, the nearest integral number not exceeding one third) of the members repre-

senting workers, to be chosen by lot, shall retire from the Committee. Rules.

(2) At the end of two years from the date of these Regulations one half (or if one half is not an integral number, the nearest integral number not exceeding one half) of the remainder of the first members of each District Wages Committee representing employers, to be chosen by lot, and one half (or if one half is not an integral number, the nearest integral number not exceeding one half) of the remainder of the first members of each District Wages Committee representing workers, to be chosen by lot, shall retire from the Committee.

12. The term of office of an appointed member of a District Wages Committee shall be two years, and subject to the provisions of these Regulations, the term of office of a representative member shall be three years, provided that :—

(*a*) any member may retire by notice in writing to the Secretary of the Committee ;

(*b*) a member appointed to fill a casual vacancy shall act only for the unexpired portion of the term of office of his predecessor ; and

(*c*) a member whose term of office expires shall continue to act as a member until a successor is appointed.

13. Any person vacating his seat on a District Wages Committee shall be eligible to be re-appointed as a member of the Committee.

14. A vacancy among representative members on a District Wages Committee shall be filled by appointment by the Wages Board of a representative of employers or workers as the case may be.

A vacancy among appointed members on a District Wages Committee shall be filled by appointment by the Minister.

Rules.

15. Every member of a District Wages Committee shall have one vote. If, at any meeting of a Committee the number of members present representing employers and workers respectively is unequal, it shall be open to the Chairman of the meeting to require the side which is in the majority to arrange that one or more of their members shall refrain from voting, so as to preserve equality.

16. In order to constitute a meeting of a District Wages Committee, the Chairman, Deputy-Chairman, or some other appointed member of the Committee must be present, and the members present must be at least one-third of the whole number of members of the Committee. In the absence of the Chairman and Deputy-Chairman some other of the appointed members present shall act as Chairman.

17. When a District Wages Committee is authorised by the Wages Board to delegate any powers to a sub-committee, a sub-committee appointed by the District Wages Committee for such purpose shall consist of one or more representatives of employers and one or more representatives of workers on the Wages Committee in equal proportions, together with such one or more of the appointed members of the Wages Committee as may be selected by the Wages Committee. The term of office of a member of a sub-committee shall be such period, not exceeding one year, as the Wages Committee may determine.

18. Any appointed member of the Wages Board shall have the right to attend any meeting of a sub-committee of a District Wages Committee and take part in the proceedings, but without the power to vote, unless he is a member of the sub-committee.

19. Where a District Wages Committee delegate any of their powers to a sub-committee the District Wages Committee may direct that the exercise of the powers by the sub-committee shall be subject to such conditions as to appeal to them from the decision of the sub-committee or otherwise as the District Wages Committee may think desirable, and except and in so far as the District Wages

Committee with the consent of the Wages Board shall otherwise direct, the following condition shall apply, that is to say, any decision by the sub-committee shall be reported as soon as may be to the District Wages Committee, who may vary or annul the decision, but not so as to affect or prejudice anything done or suffered under or by reason of the decision of the sub-committee before it is varied or annulled. Rules.

20. The proceedings of a District Wages Committee or sub-committee shall not be invalidated by any vacancy in their number or by any defect in the appointment of any member.

21. The expression "agriculture" in these Regulations shall have the meaning given in Section 17 (1) of the Corn Production Act, 1917.

22. Any question upon the construction or interpretation of these Regulations shall, in the event of dispute, be referred to the Minister for decision.

23. The District Wages Committees Regulations, 1918, are hereby revoked, but not so as to affect the validity of the appointment or the term of office of any member appointed under those Regulations.

24. These Regulations may be cited as the District Wages Committees Regulations, 1920.

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3. Regulations made by the Board of Agriculture and Fisheries under Section 12 (1) (*b*) and (*c*) of the Corn Production Act, 1917.

1918, No. 87.

1. The Agricultural Wages Board shall, except in any case where the Board of Agriculture and Fisheries on the application of the Agricultural Wages Board by general or special order otherwise direct, by Order—

(*a*) define the benefits or advantages (not being benefits or advantages prohibited by law) which may be

Rules.

reckoned as payment of wages in lieu of payment in cash for the purposes of any minimum rate of wages fixed under the Corn Production Act, 1917, and the value at which they are to be so reckoned for such purposes; and

(*b*) define for the purpose of the application of any differential rate of wages for overtime fixed under the said Act the employment which is to be treated as overtime employment.

2. The Agricultural Wages Board shall have power by Order to limit or prohibit the reckoning of benefits or advantages as payment of wages in lieu of payment in cash for the purposes of any minimum rate of wages fixed under the Corn Production Act, 1917.

3. Any Order under the preceding regulations may be made so as to apply universally to workmen employed in agriculture, or to any special class of workmen so employed, or to any special area, or to any special class in a special area, subject in each case to any exceptions prescribed by the Order.

4.—(1) Before making any Order, the Agricultural Wages Board shall give notice of the Order which they propose to make and consider any objections to the proposed Order which may be lodged with them within one month; provided that the Board of Agriculture and Fisheries, on the application of the Agricultural Wages Board made on the ground of the limited application of a proposed Order, may exempt the proposed Order from these provisions and authorise the Wages Board to make the Order at the expiration of seven days after service of Notice of the proposed Order on the persons affected by the Order.

(2) Notice of a proposed Order and of an Order when made shall be given by the Board in such manner as they think fit with a view to bringing the Order, so far as practicable, to the knowledge of the persons affected by the Order.

Rules.

5. The Agricultural Wages Board may, if they think it expedient, cancel or vary any Order made by them, and shall reconsider any such Order if the Board of Agriculture and Fisheries direct them to do so, and the provisions of these regulations as to notice shall apply in the case of the cancellation or variation of an Order in the same manner as they apply in the case of the making of an Order.

6. The Agricultural Wages Board shall have power on the application of any employer or workman to determine any question which may arise—

(*a*) as to the value of any benefits or advantages reckoned as payment of wages in lieu of payment in cash for the purposes of any minimum rate of wages fixed under the Corn Production Act, 1917; or

(*b*) as to any contract of employment so far as the application of the provisions of the said Acts thereto is concerned.

7. The expressions "agriculture," "workmen" and "employment" in these regulations have the same meanings as in Section 17 of the Corn Production Act, 1917, and any Notice required by these Regulations to be given to any person may be given by leaving it for him at his last known place of abode or by sending it through the post in a registered letter addressed to him there. Where the notice is required to be given to a body corporate or incorporate, the notice may be given to the Secretary or some other officer of the body.

8. Any question upon the construction or interpretation of these regulations shall in the event of dispute be referred to the Board of Agriculture and Fisheries for decision.

9. These regulations may be cited as the Agricultural Wages Regulations, 1918.

Rules. 4. ORDER AS TO BENEFITS AND ADVANTAGES WHICH MAY BE RECKONED AS PAYMENT OF WAGES IN LIEU OF PAYMENT IN CASH.

The Agricultural Wages Board (England and Wales) duly established and constituted under Section 5 (1) of of the above Act, and the Regulations made by the Board of Agriculture and Fisheries, dated the 8th November, 1917, in pursuance of the powers given to them by Section 12 (1) (b) of the above Act and by the Agricultural Wages Regulations, 1918, and of all other powers enabling them, and having given the Notice prescribed by the last-mentioned Regulations, and having considered all objections duly lodged with them, do hereby Order as follows, that is to say :—

1. The benefits or advantages which may be reckoned as payment of wages in lieu of payment in cash for the purpose of any minimum rate of wages which may be fixed under the above Act, are hereby defined to include the provision by an employer for a workman employed by him of—

(1) Milk, including skimmed or separated milk.

(2) Potatoes.

(3) Lodging, except in any case in which the District Wages Committee shall determine that the lodging accommodation provided is so defective as to be injurious to health.

(4) Board, including any meals, but not including intoxicating drink.

(5) A Cottage, including any garden hitherto given or let with the cottage, except where the cottage is one in regard to which the Medical Officer of Health has reported that it is in a state so dangerous or injurious to health as to be unfit for human habitation.

2. The values at which the said benefits or advantages are to be reckoned for the purpose aforesaid are hereby defined to be—

(1) In the case of milk the current producers' wholesale price (to be ascertained and determined by the District Wages Committee as hereinafter provided).

(2) In the case of potatoes the current producers' wholesale price (to be ascertained and determined by the District Wages Committee as hereinafter provided) at the time, at which the maincrop of potatoes is lifted.

Provided that where any payment is made by the workman for the provision of the milk or potatoes, an equivalent deduction shall be made from the value at which the benefit or advantage is to be reckoned.

(3) In the case of lodging, such weekly sum as the District Wages Committee shall determine.

(4) In the case of board, such weekly sum as the District Wages Committee shall determine.

(5) In the case of a cottage, three shillings per week, less any rent or rates which may be paid by the occupier, and so that the said value shall in no case exceed three shillings per week.

Provided that this definition of the value of the provision of a cottage shall not apply—

(a) to cottages in the area of a District Wages Committee or in any defined part thereof when the said Committee shall have determined that the average value customarily attached to cottages occupied by workmen employed in agriculture and free from defects of accommodation, repair or sanitation (including water supply) in that area or part is less than 3s., and in that case the value at which the provision of a cottage may be reckoned as payment of wages in lieu of payment in cash shall be such less sum as the said Committee shall determine ; or

(b) to a cottage with regard to which the District Wages

Rules.

Committee on an application by or on behalf of the workman shall at any time

(i) certify that the cottage is defective by reason of inadequate accommodation, want of repair, or sanitation (including water supply), and is of less value than a cottage which is free from such defects ; and

(ii) determine the amount by which the value of the cottage occupied is less than the value of such a cottage, and in that case the value at which the provision of the cottage may be reckoned as payment of wages in lieu of payment in cash shall not exceed 3s. a week less the amount so determined by the Committee and also less any rent and rates which may be paid by the occupier.

3.—(1) Subject to and for the purposes of this Order every District Wages Committee shall from time to time in respect of their area or any defined part of their area :

(a) ascertain and determine the current producers' wholesale prices of milk and potatoes and

(b) determine the amounts of the weekly sums at which the values of the provision of lodging and board are to be reckoned.

(2) In determining the amounts of the said weekly sums a District Wages Committee may specify sums varying according to the character of the lodging accommodation and meals provided, and shall have regard to the current prices within their area or the defined part thereof of articles included in such accommodation and meals and to the normal or average values at which under current contracts for employment in agriculture within such area or part such accommodation and meals appear to be reckoned.

4. Every determination of a District Wages Committee under this Order shall be reported as soon as may be to the Agricultural Wages Board, who may vary such determination in any case and shall publish or notify the same,

(including such variation, if any) in such manner as they think fit with a view to bringing the same so far as practicable to the knowledge of the persons affected thereby. **Rules.**

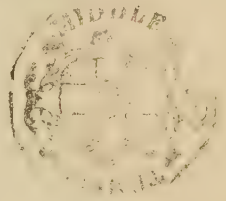
5.—(1) In this Order the expression "District Wages Committee" means any District Wages Committee established under the District Wages Committee's Regulations, 1918.

(2) Any power or duty of a District Wages Committee under this Order may be delegated to a sub-Committee or sub-Committees thereof subject to the provisions of Clause 18 of the District Wages Committee's Regulations, 1918.

6. Except as in this Order provided no benefit or advantage shall be reckoned as payment of wages in lieu of payment in cash for the purposes of any minimum rate of wages fixed under the Corn Production Act, 1917.

7. This Order shall come into operation on the ninth day of September, 1918.

Dated this sixth day of September, 1918.



5. Amendment to the above Order.

Order No. 77.

The Agricultural Wages Board (England and Wales), duly established and constituted under Section 5 (1) of the above Act, and the Regulations made by the Board of Agriculture and Fisheries, dated the 8th November, 1917, having given the Notice prescribed by the Agricultural Wages Regulations, 1918, and having considered all objections duly lodged with them, hereby give Notice, as required by the last-mentioned Regulations, that they have made the following Order under the above Act and the enactments incorporated therein and the last-mentioned Regulations (that is to say) :—

The Order of the Agricultural Wages Board, dated the 6th day of September, 1918, as to benefits and advan-

Rules. tages which may be reckoned as payment of wages in lieu of payment in cash shall be read and construed as if the following Clause had been inserted therein immediately after Clause 4 thereof :—

4a. Provided that in the case of any matter to be ascertained or determined by a District Wages Committee under this Order, if the District Wages Committee shall have failed to ascertain or determine the same within such period as the Agricultural Wages Board shall consider reasonable for that purpose, the same may be ascertained or determined by the said Board.

The above Order shall come into operation on the thirty-first day of January, 1919.

Dated this thirty-first day of January, 1919.

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6. Regulations, dated 28th July, 1919, made by the Board of Agriculture and Fisheries under the Corn Production Act, 1917, with respect to Claims under Part IV. of that Act as amended by the Corn Production (Amendment) Act, 1918.

1919, No. 1078.

1.—(1) A claim by any person interested in any land for loss suffered by him or by reason of the exercise in relation to such land by or on behalf of the Board of Agriculture and Fisheries of any of the powers under the Defence of the Realm Regulations exercisable by the Board with a view to maintaining the food supply of the country with respect to matters dealt with in Part IV. of the Corn Production Act, 1917, shall, except as hereinafter provided, be made not later than one year after the date of the exercise of the powers or, where such period has expired or shall expire on or before the thirty-first day of July, 1919, then not later than such date ; provided that any claim by an owner or other person interested in any land of which

some other person was in occupation at the date when the powers were exercised may be made not later than three months after such occupation ceased.

(2) This Regulation shall not apply to any loss suffered by reason of possession having been taken of land by the Board or on their behalf.

2. A claim by any person interested in any land for loss suffered by him by reason of possession of the land having been taken by the Board or on their behalf under the powers referred to in the preceding Regulation shall be made not later than one year after the date when such possession terminates, or where such possession is continued under the Defence of the Realm (Acquisition of Land) Act, 1916, then after the date when such continued possession terminates; provided that where such period has expired or shall expire on or before the thirty-first day of July, 1919, the claim shall be made not later than such date.

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7. The Cultivation of Lands Order, 1920, dated December 30th, 1920, made by the Minister of Agriculture and Fisheries under section 4 of the Agriculture Act, 1920.

1920, No. 2465.

Whereas under sub-section (1) of Section 4 of the Agriculture Act, 1920, the Minister of Agriculture and Fisheries is empowered by Regulation to prescribe the time within which certain questions may be referred to arbitration;

Now the said Minister does hereby declare that the time within which any person aggrieved by a notice may, under sub-section (1) of Section 4 of the Agriculture Act, 1920, require any question to be referred to arbitration shall be fourteen days from the date of the service on him of the notice, or copy of the notice, and the Regulations dated 9th December, 1918, (*a*) prescribing the time for such references to arbitration are hereby revoked.

(*a*) S.R. & O., 1918, No. 1657.

Rules. 8. DELEGATION BY THE MINISTER OF AGRICULTURE AND FISHERIES, DATED DECEMBER 30, 1920, THAT THE PROVISIONS OF THE ORDERS RELATING TO PROCEDURE OF CERTAIN COUNTY AGRICULTURAL COMMITTEES SHALL APPLY TO SUB-COMMITTEES.

Whereas by the several Orders specified in the Schedule to this Order Agricultural Committees and Committees constituted under those Orders are authorised to delegate to a sub-Committee the powers of the Committees under those Orders, and in such Orders are contained provisions as to the procedure of the Committees which are set out in a Regulation the marginal note of which is " Procedure of County Committees " ;

And whereas under the Agricultural Act, 1920, Part IV. of the Corn Production Act, 1917, as amended by that Act, comes into operation on the first day of January, nineteen hundred and twenty-one ;

Now it is hereby declared by the Minister as follows :—

(1) The said provisions of the Orders specified in the Schedule hereto relating to procedure of a Committee shall, in any case where the powers of the Committee are delegated to a sub-Committee, apply to the sub-Committee ;

(2) The provisions of the said Orders so far as they relate to the exercise of powers under Part IV. of the Corn Production Act, 1917, or any enactment amending such Part, shall come into operation on the first day of January, nineteen hundred and twenty-one.

Schedule.

The Bedfordshire (Agricultural Committees) Order, 1920.
The Berkshire (Agricultural Committees) Order, 1920.
The Buckinghamshire (Agricultural Committees) Order, 1920.
The Cambridgeshire (Agricultural Committees) Order, 1920.
The Cheshire (Agricultural Committees) Order, 1920.
The Cornwall (Agricultural Committees) Order, 1920.
The Cumberland (Agricultural Committees) Order, 1920.
The Devon (Agricultural Committees) Order, 1920.
The Durham (Agricultural Committees) Order, 1920.

The Essex (Agricultural Committees) Order, 1920.
The Gloucestershire (Agricultural Committees) Order, 1920.
The Herefordshire (Agricultural Committees) Order, 1920.
The Hertfordshire (Agricultural Committees) Order, 1920.
The Huntingdonshire (Agricultural Committees) Order, 1920.
The Isle of Ely (Agricultural Committees) Order, 1920.
The Isle of Wight (Agricultural Committees) Order, 1920.
The Isles of Scilly (Agricultural Committees) Order, 1920.
The Kent (Agricultural Committees) Order, 1920.
The Lancashire (Agricultural Committees) Order, 1920.
The Leicestershire (Agricultural Committees) Order, 1920.
The Holland (Agricultural Committees) Order, 1920.
The Kesteven (Agricultural Committees) Order, 1920.
The Lindsey (Agricultural Committees) Order, 1920.
The Norfolk (Agricultural Committees) Order, 1920.
The Northamptonshire (Agricultural Committees) Order, 1920.
The Northumberland (Agricultural Committees) Order, 1920.
The Nottinghamshire (Agricultural Committees) Order, 1920.
The Oxfordshire (Agricultural Committees) Order, 1920.
The Rutland (Agricultural Committees) Order, 1920.
The Salop (Agricultural Committees) Order, 1920.
The Soke of Peterborough (Agricultural Committees) Order, 1920.
The Somerset (Agricultural Committees) Order, 1920.
The Staffordshire (Agricultural Committees) Order, 1920.
The East Suffolk (Agricultural Committees) Order, 1920.
The West Suffolk (Agricultural Committees) Order, 1920.
The East Sussex (Agricultural Committees) Order, 1920.
The West Sussex (Agricultural Committees) Order, 1920.
The Warwickshire (Agricultural Committees) Order, 1920.
The Westmorland (Agricultural Committees) Order, 1920.
The Wiltshire (Agricultural Committees) Order, 1920.
The Worcestershire (Agricultural Committees) Order, 1920.
The East Riding of Yorkshire (Agricultural Committees) Order, 1920.
The North Riding of Yorkshire (Agricultural Committees) Order, 1920.
The West Riding of Yorkshire (Agricultural Committees) Order, 1920.

Rules. 9. THE INJURIOUS WEEDS REGULATIONS, 1921, DATED JUNE 2, 1921, MADE BY THE MINISTER OF AGRICULTURE AND FISHERIES UNDER SUB-SECTION (10) OF SECTION 4 OF THE AGRICULTURE ACT, 1920 (1921, No. 929).

Whereas the Minister of Agriculture and Fisheries is empowered by sub-section (10) of section four of the Agriculture Act, 1920, to declare by Regulations the injurious weeds to which this sub-section shall apply :

Now the Minister by these Regulations declares :—

1. The said sub-section shall in England and Wales apply to each of the undermentioned injurious weeds, that is to say :—

(1) Thistles *Carduus lanceolatus L.*—Spear Thistle.
Carduus arvensis curt.—Creeping Thistle or Field Thistle.

(2) Docks *Rumex crispus L.*—Curled Dock.
Rumex obtusifolius L.—Broad-leaved Dock.

(3) Ragwort *Senecio Jacoboea L.*

2. These Regulations may be cited as The Injurious Weeds Regulations, 1921.

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